

	MARICOPA COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURES	
	Subject VICTIMS' BILL OF RIGHTS	Policy Number GJ-14 Effective Date 03-17-22
Related Information Victims' Bill of Rights Victims' Rights for Juvenile Offenses EH-1, <i>Address Confidentiality Program</i>	Supersedes GJ-14 (04-22-15)	

PURPOSE

The purpose of this Office Policy is to establish guidelines and procedures for state and federal legislation regarding victims' rights and procedural actions required by the various divisions of the Office to safeguard these rights.

POLICY

It is the policy of the Office to ensure compliance with state and federal legislation regarding victims' rights and to protect victims of a crime from being further victimized.

DEFINITIONS

Accused: A person who has been arrested for committing a criminal offense and who is held for an initial appearance or other proceeding before trial; a juvenile who is referred to juvenile court for committing a delinquent act.

Arrest: The actual custodial restraint or temporary custody of a person.

Criminal Offense: Conduct that gives a peace officer or prosecutor probable cause to believe that a felony, a misdemeanor, a petty offense, or a violation of local criminal ordinance has occurred.

Criminal Proceeding: A hearing, argument, or other matter scheduled by, and held before, a trial court.

Custodial Agency: Any law enforcement officer or agency, sheriff, county juvenile detention center, the Arizona Department of Juvenile Corrections, Arizona Department of Corrections, or a secure mental health facility that has custody of a person who is arrested or in custody for a delinquent or incorrigible offense.

Defendant: A person or entity that is formally charged by complaint, indictment, or information with the commission of a criminal offense.

Delinquent Act: An act committed by a juvenile that, if committed by an adult, would be either a felony or a misdemeanor offense, a petty offense, or a violation of a local criminal ordinance.

Immediate Family: A victim's spouse, parent, child, sibling, grandparent, or other lawful representative.

Lawful Representative: A person who is designated by the victim or appointed by the court who will act in the best interests of the victim.

Post-Adjudication Release: Release from probation, intensive probation, home detention, residential placement, or any other release from the jurisdiction of the Maricopa County Juvenile Court.

Post-Arrest Release: The discharge of the accused from confinement on recognizance, bond, or other condition.

Post-Conviction Release: Refers to a “notice of release” and includes notice of final release from incarceration and notice of parole release.

Victim: A person against whom a criminal or delinquent offense has been committed, or if the person has been killed or is incapacitated, the person’s immediate family or lawful representative, unless the family or representative is in custody for an offense or is the accused.

PROCEDURES

1. **Victims' Rights:** Office personnel shall be familiar with all victims’ rights as specified in the Victims’ Bill of Rights. The following are provisions from the Victim Bill of Rights, which include, but are limited to:
 - A. Treat the victim with fairness, respect, and dignity, and free from intimidation, harassment, or abuse throughout the criminal justice process.
 - B. Upon request, inform the victim of the death or release of the accused.
 - C. To be present at, and upon request, inform the victim of the date, time, and place of all criminal proceedings where the defendant has the right to be present.
 - D. Ensure the victim, if desired, is heard at any proceeding involving a post-arrest release decision, negotiated plea, or sentencing of the defendant.
 - E. Refuse an interview, deposition, or other discovery request by the defendant, the defendant’s attorney, or other person acting on behalf of the defendant, and set reasonable conditions for any interview granted.
 - F. Confer with the prosecution after the crime against the victim has been charged, before trial, or before any disposition of the case, and have knowledge of the disposition.
 - G. Read pre-sentence reports related to the crime against the victim when they are available to the defendant and are not excised by the court or made confidential by law. When appropriate and availability exists, offer the pre-sentence reports, by the pre-sentence investigator.
 - H. Make a request to the court for the defendant to pay restitution for the victim’s economic losses directly related to the crime and to receive such restitution promptly.
 - I. To be heard, if desired, at any proceeding when any post-conviction release confinement is being considered.
 - J. To have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims’ rights, and to have these rules be subject to amendment or repeal by the legislature to ensure the protection of these rights.
 - K. Know and understand the victims’ constitutional rights, victim assistance programs, and other resources available to help the victim.
 - L. Understand the process on how to obtain additional information concerning the proceedings of accused juveniles who are cited and released pursuant to an *Arizona Traffic Ticket and Complaint* form.

- M. Notify the victim in all cases of an escape and subsequent re-arrest of the accused or convicted perpetrator.
 - N. Upon request, return the victim's property which was taken into evidence or explain why the refusal to return their property occurred.
 - O. Ensure the victim is heard through an oral, written, audio, or videotaped statement.
 - P. Upon request, give the victim a copy of the conditions of the defendant's release from custody.
 - Q. Make a request to the court for a revocation of the defendant's bond or release, if the victim was threatened or harassed by, or on behalf of, the defendant.
 - R. Protect the victim from unnecessary contact with the defendant, defendant's immediate family, and defense witnesses.
 - S. To be told if a prosecutor decides **not** to proceed with a prosecution, to be given the reasons for that decision, and upon request, to confer with the prosecutor before the decision is final.
 - T. Inform the victim of the name of the prosecutor and give their contact information.
 - U. Have the defendant, or any agent of the defendant, make contact with the victim through the prosecutor's office.
 - V. Upon request, talk with the prosecutor before a change of plea.
 - W. Contest a negotiated plea if reasonable efforts were **not** made to notify the victim.
 - X. Provide medical expenses associated with securing evidence of a sexual assault or dangerous crime against children paid by the county attorney in the county in which the crime occurred.
 - Y. Choose someone to exercise these rights if the victim is unable to do so.
2. **Documents Provided to Victims:** The following documents are normally used when there is an identified victim:
- A. *Victim Request for, or Waiver of, Pre-Conviction and/or Pre-Adjudication Rights* form and a *Victims' Rights Request/Waiver and Information Booklet*: This form and booklet shall be provided to a victim, or in all cases where an individual is potentially a victim of a crime, and as soon as reasonably possible after an offense has been committed. The form and booklet will notify the victim of specific rights and assistance information, allows them to request or waive certain rights, and provides them with a method to designate a lawful representative. Copies of the completed form are then routed to the appropriate destinations as the case proceeds through the adult or juvenile justice system.
 - 1. The form and booklet are to be issued at the time the victim is initially contacted, whether or not a suspect is known or taken into custody. The form shall be used in the case of a felony, a misdemeanor, a petty offense, or a violation of a local criminal ordinance for adult and juvenile suspects.
 - 2. The responding deputy shall print out a copy of the *Victim Request Form, or Waiver of, Pre-Conviction and/or Pre-Adjudication Rights* form through the Traffic and Criminal Software (TraCS) system and give it to the victim along with a copy of the booklet which

are found in each patrol vehicle. If TraCS is unavailable, the deputy shall manually complete the form. TraCS shall be updated as specified in this Office Policy. The form and booklet will provide answers to most of the questions a victim may have concerning victims' rights and will provide a comprehensive list of phone numbers for organizations that can further assist the victim. The deputy shall complete sections one, two, three, and four of the form.

- a. Section One: This section indicates whether the form is based upon an initial contact with the victim or the result of a victim requesting to change information that was previously submitted. It further indicates whether the report is being taken over the phone or in person.
 - b. Section Two: This section contains the law enforcement agency's name, phone number, reporting officer, police report number, and the report date and time. It also provides the location of the incident and type of offense.
 - c. Section Three: This section indicates the current arrest status of the suspect and, if there has been an arrest, the suspect's name and date of birth. This section also contains a contact phone number to obtain initial appearance or detention hearing information and the name of the custodial agency.
 - d. Section Four: This section is for the victim and/or lawful representative contact information and whether or not the victim waives their rights.
3. If the victim or their lawful representative is physically or emotionally unable to provide information at the time of contact, the deputy shall check the Request/Waiver Exception box and provide the address information of the victim, if an adult, or the lawful representative when the victim is a minor or incapacitated or vulnerable adult.
 4. The victim shall be given a copy of the *Victim Request For, or Waiver of Pre-Conviction and/or Pre-Adjudication Rights* form and *Victims' Rights Request/Waiver and Information Booklet* form. The *Victim Request For, or Waiver of Pre-Conviction and/or Pre-Adjudication Rights* form shall be forwarded to the Victims' Assistance and Notification Unit (VANU) through an automated e-mail generated by the TraCS system. Additional paper and/or electronic copies of the form shall be distributed as follows:
 - a. When no arrest has been made at the time of initial victim contact, a copy of the form shall be attached to the *Incident Report (IR)* and held in the Records and Automated Fingerprint Identification System (AFIS) Division pending arrest of a suspect.
 - b. When an arrest occurs at the same time as the initial victim contact and the suspect is an adult, a copy of the form shall be submitted to the prosecutor.
 - c. When an arrest occurs after the initial victim contact and the suspect is an adult, the previously completed copy of the form shall either be retrieved and updated in the TraCS system or updated with a supplement IR.
 - (1) If necessary, any additional information completed or attached to a new supplement shall be submitted to the prosecutor.
 - (2) The victim shall be informed of the suspect's arrest and advised how to exercise their right to be informed of the suspect's release.

- d. When an arrest occurs and the suspect is an adult, but has been cited and released, a copy of the form shall be submitted to the prosecutor at the time the case is presented to the prosecutor for review.
 - e. When an arrest occurs at the same time as the initial victim contact and the suspect is a juvenile, a copy of the form shall be submitted to the Maricopa County Juvenile Court Center at the time the juvenile is taken to detention.
 - f. When an arrest occurs after the initial victim contact and the suspect is a juvenile, the previously completed copy of the form shall either be retrieved and updated in the TraCS system or updated with a supplemental IR and submitted to the Maricopa County Juvenile Court Center at the same time the juvenile is taken to detention. The victim shall be informed of the juvenile's detention and advised how to exercise their right to be informed of the juvenile's release.
 - g. When an arrest occurs and the suspect is a juvenile, but they have been cited and released, a copy of the form shall be submitted to the juvenile probation intake section at the time the case is referred to court.
5. If the TraCS system is not available, the deputy shall manually complete the *Victim Request For, or Waiver of Pre-Conviction and/or Pre-Adjudication Rights* form and enter the information into the TraCS system prior to the end of shift.
- a. If circumstances exist preventing the entry of the data, the data shall be entered electronically in TraCS no later than 48 hours after the end of shift in which the action occurred. A notation should be made into the Comments field documenting the circumstances for the delay of the data entry.
 - b. Deputies shall provide supervisors hardcopies of all manually completed forms prior to the end of shift.
 - c. Supervisors shall forward a copy of all signed, manually prepared forms to the VANU.
- B. **Victim Information Form:** This form is required from arresting agencies when an individual who has been accused of a criminal offense against another person is booked into jail. It is not required for warrant arrests.
- C. **Victim Notification Report:** This report supplements the IR with information of notifications attempted or completed by Office personnel.
- D. **Victim Notification Letter:** This form letter is mailed to advise the victim of either the arrest of a suspect or the submission of a case to the prosecutor's office.
- E. **Computer Generated Letters:** These notifications to victims are prepared by the VANU to inform the victim of the items related to their case. These letters may be prepared for the following reasons:
- 1. Post-arrest releases;
 - 2. Post-conviction releases;
 - 3. Escapes or re-arrests;

4. Deaths;
 5. Terms and conditions of releases; or
 6. Work Furlough participation.
3. **Victim Notifications:** Victim notifications may be conveyed in the following ways:
- A. Juvenile Arrest: A victim's request for notice must be sent to the Maricopa County Juvenile Court Center.
 - B. In-Person: The investigating deputy shall generally make the required in-person notifications at the time the crime is investigated. The immediacy of later notification of information, such as an impending court appearance, may also result in an attempt to make an in-person notification.
 1. Deputies shall record on the Victim Notification Report form that is part of the IR the date, the time, and a synopsis of the information given to the victim.
 2. Initial contacts will be supplemented by the presentation of the *Victim Request For, or Waiver of Pre-Conviction and/or Pre-Adjudication Rights* form and *Victims' Rights Request/Waiver and Information Booklet*.
 - C. Telephonically: When a suspect is apprehended after an investigation or the original report is taken by telephone, victim notification may be made by telephone. Later notifications, requested by the victim, may also be attempted telephonically.
 1. Every telephonic victim notification shall be documented on the Victim Notification Report Form as part of the IR, IR Supplement, or by VANU in the Victim Information File with the date, time, a synopsis of the information given, and the person to whom it was given.
 2. The notification may be left with any responsible person over the age of 18 who answers the telephone, or a call back number may be left on voicemail.
 3. Some notifications, in order to be timely, must be attempted either by telephone or by in-person contact.
 4. Attempts at telephonic notification should include a minimum of two calls, sufficiently far apart to constitute a reasonable effort.
 - D. By Mail: When contact cannot be successfully completed by telephone, notification shall be completed by mailing the appropriate notice to the victim's last known address. A copy of the notification shall be attached to the IR, IR Supplement, or noted in the Victim Information File by VANU and shall indicate the date on which it was mailed.
4. **Responsibilities of Law Enforcement Personnel:** Responsibilities of law enforcement personnel investigating criminal offenses include, but are not limited to, the following:
- A. Inform the victim of their rights under the Victims' Bill of Rights, by presenting and explaining, or mailing a copy of the *Victim Request For, or Waiver of Pre-Conviction and/or Pre-Adjudication Rights* form and *Victims' Rights Request/Waiver and Information Booklet*.
 - B. Advise the victim of crisis intervention, medical, and emergency services available to them.

1. Victims of sexual assaults, child abuse, or child sexual assault should have their forensic medical services coordinated through the Sexual Victim's Unit (SVU) or in accordance with Violence Against Women Act (VAWA) by using the Maricopa County Attorney's Office contracted medical vendor for examination.
 2. The fees for the examination are paid by the county attorney in the county in which the crime occurred. The victim may be financially responsible for any medical costs beyond that of the sexual assault examination.
- C. Inform the victim, upon the suspect's arrest, of the following information:
1. The arrest of the suspected offender and upon request, further information and notice of all proceedings in the case.
 2. Inform the victim that the suspect was cited and released, the court date and time that has been assigned to the suspect, and how to obtain additional information regarding the subsequent proceedings. The victim will be informed that the suspect may appear any time prior to the court date and that the victim is responsible for contacting the court.
 3. The phone number of the VANU so that victim can obtain Victim Right's Information and the date and time of the Initial Appearance (IA) hearings conducted within any Office jail facility.
 4. The phone number of the Juvenile Detention Center so the victim can obtain the date and time of the Advisory Hearing.
 5. The right to be heard at the IA hearing.
 6. The right to submit a written statement to the court. The victim shall be advised that the statement may be delivered to the IA court in person, by fax, phone, or by e-mail at MCSO.org.
- D. Provide the victim with the names and telephone numbers of private and public victim assistance programs.
- E. Provide domestic violence victims with the procedures and resources available for the protection of the victim, including information for the Address Confidentiality Program. This program was designed to protect victims of domestic violence, sexual offenses, and stalking who are in fear for their safety, as specified in Office Policy EH-1, *Address Confidentiality Program*.
- F. Notify the Operations Information Center (OIC) when arresting any person on another agency warrant, not filed at the Maricopa County Sheriff Office (MCSO), in which the deputy has personally confirmed the warrant by telephone. OIC shall ensure appropriate notification can be made to the agency responsible for the warrant, as specified in this Office Policy.
- G. If during the course of the investigation the deputy becomes aware of new victim information and the suspect is in custody, the deputy shall send an e-mail to the VANU at VANU@MCSO.Maricopa.gov with the victims updated information along with identifying case information.
5. **Responsibility of the Detective Supervisor:** It shall be the responsibility of the detective supervisor submitting a case for prosecution to ensure the victim is provided with a general contact phone number for the County Attorney's Victim Witness Advocate's Office as a part of the submittal notification.

6. **Responsibilities of VANU:** Responsibilities of VANU personnel in making victim notifications occurs when a crime victim has requested their victims' rights which include, but are not limited to, the following:
 - A. Notify the victim of the date, time, and place of the IA court.
 - B. Mail a copy of the terms and conditions of the suspect's release to the victim when the accused was in custody. The prosecutor's office is responsible for making this notification when the accused appears in response to a summons.
 - C. Notify the victim and the prosecutor of the escape and the subsequent re-arrest of a person who is accused or convicted of committing a criminal offense against the victim.
 - D. Mail the following to the victim when the notice of post-conviction release and the suspect is in custody:
 1. A notice of release, at least 15 calendar days before the inmate's release.
 - a. If the sentence is less than 15 calendar days, the notification shall be made as soon as reasonably possible.
 - b. The Work Furlough and Work Release are exceptions to this rule. Notice shall be mailed when the inmate is placed into either program.
 2. A notice of death, within 15 calendar days after the inmate's death.
 - E. Notify the prosecutor's office of an inmate's release that has a victim listed for notification.
7. **Responsibilities of the OIC:** It shall be the responsibility of the OIC personnel to forward victim information to the VANU. Further responsibilities of OIC personnel in making victim notifications include, but are not limited to, the following:
 - A. Notify the victim upon the arrest of any suspect, by any agency, on a warrant initiated by the Office. This includes hit confirmations from other jurisdictions either in or out of state. When victim information has not been previously recorded, the OIC operator shall locate the IR and identify the victim.
 - B. Notify other agencies when Office arrests have been made on persons named in warrants for criminal offenses issued by those agencies and filed with the Office. This notification shall be confirmed by a teletype message to the agency. It is that agency's responsibility to notify the victim of the arrest and to provide the VANU with enough victim information such as name, address, and telephone number to notify the victim of the time and place of the IA hearing; or in the event of the suspect's escape or release from custody.
 - C. Notify other agencies when Office arrests have been made on persons named in warrants for criminal offenses issued by those agencies and **not** filed with the Office. Copied transmissions from the Communications Division to the OIC shall be used to prepare and send a message to the originating agency, enabling that agency to notify the victim of the suspect's apprehension. This message shall also request that the originating agency provide the VANU with enough victim information such as name, address, and telephone number to notify the victim of the time and place of the IA hearing; or in the event of the suspect's escape or release from custody.

- D. Confirm other agency warrants made directly by enforcement personnel by telephone, and subsequently phoned or faxed to the OIC, and shall also require that teletype notification be made to the originating agency.

- 8. **Responsibilities of the Communications Division:** It shall be the responsibility of Communications Division personnel to fax the OIC a computer printout of every warrant hit received and confirmed by Communications Division personnel. Each printout shall indicate the identification of the person who confirmed the warrant, the serial number of the operator, and notations as to the arresting officer, the bond if any, and where the arrested person will be booked.

- 9. **Other Agencies:** Other agencies booking arrests on warrants, not filed with the Office, are responsible for confirming the warrants, notifying the victims, and providing enough victim information to enable the VANU to notify the victim of time and the place of the IA hearing; in or the event of the suspect's escape or release from custody. Failure to notify the victim of an escape, release, or other requested release information for lack of victim information from the investigating agency, after timely notification and request, is the responsibility of the investigating agency.

- 10. **Examination of Documentation:** It shall be the responsibility of the VANU to examine documentation related to victims' rights in all affected Office divisions and to evaluate their participation.