

New Directions from the Field:

Victims' Rights and Services for the 21st Century

Recommendations for Victims' Rights

The recommendations below, which appear in the May 1998 *New Directions* Report, have been reformatted for replication and distribution.

The enactment of the Nation's first State Bill of Rights for crime victims in 1980 ushered in an era of dramatic progress for victims' rights. Since that time, State actions in legislating rights for crime victims within the criminal and juvenile justice systems have been remarkable. Laws extending rights to victims of Federal crimes have also been passed by Congress. Despite this record of success, too many crime victims are still being denied fundamental rights in the Federal, State, Tribal, and military justice systems. Many victims' rights laws are not being implemented, and few jurisdictions require proof of compliance from justice agencies mandated to carry out these important rights. To enhance victims' rights implementation efforts and improve legislative compliance across all justice systems, the following recommendations are set forth by the field:

1. The U.S. Constitution should be amended to guarantee fundamental rights for victims of crime. Constitutionally protected rights should include the right to notice of public court proceedings and to attend them; to make a statement to the court about bail, sentencing, and accepting a plea; to be told about, to attend, and to speak at parole hearings; to notice when the defendant or convict escapes, is released, or dies; to an order of restitution from the convicted offender; to a disposition free from unreasonable delay; to consideration for the safety of the victim in determining any release from custody; to notice of these rights; and to standing to enforce them.
2. Crime victims should have the right to notice of public court proceedings, including pretrial release hearings, plea agreements, sentencing, appeals, and appropriate postconviction release proceedings such as probation and parole hearings. Victims should also have the right to notice of any significant change in the status of defendants and to receive timely notice, upon request, of inmates' temporary or permanent release, or inmates' escape or death.
3. Federal and State laws should be strengthened to ensure that victims have the right to be present throughout all public court proceedings.
4. Prosecutors should provide victims an opportunity for meaningful consultation prior to major case decisions such as dismissal, reduction of charges, or acceptance of plea agreements. Judges should not accept plea agreements without first asking prosecutors on the record if they have consulted the victim, and judges should take the views of the victim into account before making a final sentencing decision. Special procedures should be developed for cases involving multiple crime victims, such as acts of mass violence, massive antitrust or telemarketing cases, where consultation may be difficult.
5. Crime victims should have the right to be heard in major court proceedings including pretrial release hearings, bail hearings, at sentencing, and before the disposition of plea agreements, probation, parole, and commutation. Input should be permitted through both oral and submission of written, videotaped, or audiotaped statements.
6. Victims and witnesses of crime should have the right to reasonable protection, including protection from intimidation. The safety of victims and witnesses should be considered in determining whether offenders should be released from custody prior to completing their full sentence.
7. Orders of full restitution for crime victims should be mandatory. Restitution orders should be automatically entered as civil judgments at the end of the offender's supervisory period if not paid. Alternatively, legislation could be enacted giving judges and paroling authorities jurisdiction for enforcing restitution orders until they are fully paid.

8. Victims should have the right to disposition of proceedings free from unreasonable delay.
9. All crime victims should have the right to a full range of services and support to help them recover physically, psychologically, and in practical ways from the effects of crime, whether or not they report the crime or become involved in related criminal prosecutions or juvenile adjudications.
10. Crime victims should have fundamental rights that are enforced in all juvenile justice proceedings.
11. All criminal and juvenile justice agencies, including courts, as well as victim assistance programs, should help ensure that victims receive information about their rights in a form they understand.
12. Victims of crime should receive assistance in exercising their participatory rights. Advocates should be available to explain rights to victims, help them to exercise those rights and, when necessary, serve as their representatives in court and other key justice processes when victims are underage or incapacitated or if representation is otherwise appropriate.
13. States should review their victims' rights statutes and constitutional amendments to determine if fundamental rights are extended to all crime victims.
14. States that have not already done so should adopt truth in sentencing reforms to ensure that victims know how long offenders will actually be incarcerated.
15. Federal and State laws should prohibit employers from taking adverse action against victims who must miss work to participate in the criminal or juvenile justice process.
16. In cases where there is good cause to believe that bodily fluids were exchanged, victims should have the right to be tested and to have the accused or convicted offender tested at appropriate times for the HIV virus and sexually transmitted diseases. State statutes should require these tests be conducted by specially trained personnel who can advise victims of the reliability, limitations, and significance of the test, as well as HIV treatment options. In addition, laws should specify the agency that will pay for HIV testing and pre- and posttest counseling, as well as treatment for any victims who test positive.
17. State and Federal laws should allow and criminal and juvenile justice agencies should facilitate community impact statements as a means for members of a neighborhood or community that has been impacted by crime to have input into sentencing.
18. Victims should have standing to enforce their rights, and sanctions should be applied to criminal and juvenile justice professionals who deny victims their fundamental rights.
19. States and the Federal Government should create compliance enforcement programs, sometimes referred to as victim ombudsman programs, to help facilitate the implementation of victims' rights.
20. Federal crime victims' rights should apply in military proceedings.
21. Indian tribes should review their legislation, policies, and court systems to enhance the fundamental rights of Native American victims.
22. Victims of crime should have rights at administrative proceedings, including the right to have a person of their choice accompany them to the proceedings, the right to input regarding the sanction, and the right to notification of the sanction.
23. Criminal and juvenile justice agencies should establish a means of monitoring their own compliance with crime victims' rights laws and require public documentation showing that victims were provided their rights or indicating an appropriate reason why they were not. In addition, independent audits should be conducted of State and Federal agency compliance with victims' rights laws.
24. Introductory and continuing education for all criminal and juvenile justice professionals should address victims rights, needs, and services, and incorporate involvement from crime victims themselves.
25. New funding mechanisms must be developed to support the expansion and implementation of victims' rights and services nationwide.