

Reading

Dealing With the Prosecutor and the Court System

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Introduction

Crime victims often encounter difficulties negotiating the court system. This is primarily because they have not received information about the role of the public prosecutor, the different stages of the criminal court process, or what, if anything, is expected of them during the different stages of that process.

Role of the Public Prosecutor

The public prosecutor, also known as the district attorney, county attorney or state's attorney, has jurisdiction over a certain geographical area and represents the interests of the people in that area. This jurisdiction usually extends over a county, sometimes over a judicial district, sometimes over the whole state. In all but a handful of states, the public prosecutor is elected by the people and is answerable to them through the electoral process. In all but the smallest prosecutors' offices, the public prosecutor has a staff of assistants, who are known as assistant district, county, or state's attorneys and are responsible for processing most, if not all, of the cases.

The prime function of the public prosecutor is the prosecution of violations of the criminal law committed within the area of jurisdiction. Occasionally the public prosecutor may initiate investigations into alleged criminal conduct. Far more commonly dealt with, however, are cases where a crime has been reported to, or detected by, law enforcement and a suspect has already been arrested. In this situation, the public prosecutor has, in essence, two initial decisions to make. The first is whether or not to prosecute a suspect. Then, if a suspect is to be prosecuted, it must be decided with what offense or offenses the suspect is to be charged.

Victim characteristics and victim behavior may influence whether the prosecutor will use the victim's testimony in the case. Thus, for example, if the victim has a criminal record or was intoxicated at the time of the incident, the prosecutor may hesitate to call the victim to the witness stand because of fear that he/she may be perceived by a judge or jurors as an unreliable witness.

Role of the Victim

It may surprise some to learn that the victim is not a formal party to the case. The public prosecutor is, as the term suggests, a lawyer who represents the interests of the people in her/his jurisdiction. The prosecutor, or district attorney, is not the victim's personal attorney, representing purely the victim's interests as would occur in a civil case. Though the interests of the victim and the public prosecutor are likely to be similar, they are not necessarily exactly the same. Thus, while both the victim and the public prosecutor are interested in seeing the offender brought to justice, they may not see eye to eye with regard to whether the offender should be prosecuted, what the charges should be, or how the case should be resolved. Should the offender, for example, be allowed to plead guilty to a lesser charge, a resolution of the case the victim may, or may not, support? The key issue is that the public prosecutor's job is to decide what is in the best interests of the people she/he serves, which may, in fact, not be what the victim wants. Thus, with the limited resources available, the public prosecutor may reasonably believe that it is not in the best interests to prosecute the offender to the full extent of the law. No public prosecutor's office has sufficient staff to do so in every case and priorities have to be set.

There is, in fact, little formal control over the prosecutor's decision of whether or not to charge a suspect. If the prosecutor decides not to charge a suspect, there is no formal avenue of appeal for a victim. Even if the prosecutor initially decides to go ahead with the case, the decision can still be reversed. The way in which the court case appears in the docket highlights the fact that it is the state, through the public prosecutor, and not the victim that is the official complainant in the case. The case will appear as *State v. Offender* (e.g. *Commonwealth of Massachusetts v Jones*). This is very different to a civil case where the parties will appear as *Smith* (complainant) *v. Jones* (defendant).

The victim's official role in a criminal case is, in fact, that of a witness. The victim is a person who may be in a position to provide evidence that will help the prosecutor secure the conviction of the defendant. In a strict legal sense, the victim's testimony is evidence that can be used in the prosecutor's discretion. Victim characteristics and victim behavior will influence whether the prosecutor will use the victim's testimony in the case. Thus, for example, if the victim was drunk at the time of the incident, the prosecutor may hesitate to call the victim to the witness stand. Victims may, in fact, not want to testify for a variety of reasons. The victim may have been threatened by the offender or the offender's family or friends. A victim who is an illegal alien may fear deportation. A domestic violence victim may, for a variety of reasons such as fear of, or financial dependence on the offender, want the case dropped. When a victim refuses to testify, the prosecutor has to decide whether to proceed without the victim's testimony or to issue a subpoena ordering the victim to appear in court and testify. If the victim still refuses, the victim may be held in contempt of court.

Though the above is an accurate description of the official role of the victim in the criminal court process and the victim's official relationship to the public prosecutor, it should be noted that many public prosecutor's offices now have victim assistants/advocates who fulfill functions outside this official narrowly defined (and potentially adversarial) relationship, such as referring the victim to counseling. In addition, there are

independent organizations such as domestic violence programs and rape crisis centers that have victim advocates who can play a more active role in assisting victims and in trying to ensure that their interests and concerns are appropriately considered and may also themselves be qualified to provide professional counseling.

The Criminal Court Process

Understanding the victim's official role in the criminal justice process helps explain why the victim became known as the forgotten party in a criminal case. The past forty years have seen a movement to have the victim's voice considered in all stages of the processing of a criminal case. States have been active in providing victims with rights. Although the rights of crime victims vary from state to state, the following rights are commonly granted during the court process. The right to:

- Be notified of the stages/proceedings in the criminal justice process.
- Attend and participate in criminal justice proceedings.
- Be protected from intimidation and harassment.
- Have their safety and the safety of their family considered when bail is set.
- Be afforded a safe waiting area before and during court proceedings
- Provide information to the probation department conducting a pre-sentence investigation on the impact of the crime.
- Submit a victim impact statement.
- Be afforded prompt return of personal property seized as evidence from the offender.
- Be reimbursed by a law enforcement agency for medical examinations for victims of sexual assault, counseling on AIDS and HIV infection, and testing for sexual assault victims.
- Be guaranteed confidentiality of records.¹

In the federal system, The Justice for All Act of 2004 provides victims of federal crimes with the following rights:

- The right to be reasonably protected from the accused.
- The right to reasonable, accurate, and timely notice of any public court proceeding or any parole proceeding involving the crime, or of any release or escape of the accused.
- The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.

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Integrating Crime Victims' Issues Into College and University Curricula**

- The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
- The reasonable right to confer with the attorney for the government in the case.
- The right to full and timely restitution as provided in law.
- The right to proceedings free from unreasonable delay.
- The right to be treated with fairness and with respect for the victim's dignity and privacy.ⁱⁱ

The criminal court process may begin either before or after a suspect has been arrested. In some cases an arrest warrant will have been issued by a court, and a suspect will be arrested as a result of the issuance of that warrant. In most cases, however, the police will arrest a suspect without the prior issuance of a warrant. Once arrested, the suspect will usually be taken to the police station and booked. If the suspect has committed a minor offense, instead of being taken to the police station, he or she may simply be issued a summons (an order directing the suspect to appear in court). If taken to the police station, the suspect may be either released or held in a cell pending the initial appearance in court.ⁱⁱⁱ

The initial appearance is the first of the post-arrest court proceedings in which an accused will be involved. In compliance with U.S. Supreme Court mandates, state laws require that the initial appearance be held a very short time after the arrest has taken place (usually within twenty-four or forty-eight hours). It is generally held in one of the lower trial courts. Its purpose is to notify the accused of the charges, to advise the accused of his or her right to be represented by a lawyer, and to consider pretrial release of the accused. If the offense charged is a felony, the accused will also be informed of his or her right to a preliminary (felony) hearing, if such a right is provided by that state. The victim is generally not present at this initial stage of the court process. However, as noted elsewhere, concerns about victim safety may be addressed in determining whether to release the defendant prior to trial.

1. Misdemeanor Cases

If the offense charged is a misdemeanor, the next stage of the criminal court process will generally be the trial. Prior to trial, however, any one of a number of pretrial motions may be brought by a defendant, such as a motion to suppress evidence that is alleged to have been illegally seized. The prosecution, it should be noted, is constitutionally required to meet a request by the defense for any evidence that is "material either to guilt or to punishment."^{iv}

Instead of going to trial, the prosecutor may decide to drop charges or to agree to a plea agreement. A plea agreement is an agreement made between the prosecutor and the defendant (usually through the defendant's attorney) whereby the defendant agrees to plead guilty to a lesser charge, to one of a number of charges (the others being dropped), or to the offense charged in return for the prosecutor's recommendation to the judge that

the defendant receive a lighter sentence than might otherwise be imposed. If a plea agreement is made, then there is no trial; for the purpose of the trial is to determine the guilt or innocence of the defendant. Victim input into decisionmaking with regard to the resolution of the case and the difficulties and discomfort the victim may experience in court are issues that are addressed below.

At trial, the prosecution must prove beyond a reasonable doubt all of the elements of the offense charged. To achieve a verdict of not guilty, the defendant must raise a reasonable doubt as to his or her guilt. In a misdemeanor trial it will nearly always be the judge who will determine the guilt or innocence of the defendant. There is a constitutional right to jury trial when conviction of an offense may result in imprisonment for more than six months.^v In practice, however, this right may often be waived. If the defendant has either pleaded guilty or been found guilty at trial, the next stage will be for the judge to sentence the defendant. In sentencing the defendant, the judge chooses which of a number of sanctions to impose (e.g., fine, imprisonment, or probation). After sentencing, the defendant may still choose to appeal to a higher court.

2. Felony Cases

If the offense charged is a felony, the next stage in the court process after the initial appearance will usually be the preliminary hearing. Since felonies must generally be tried in a higher court than that which holds the initial appearances and preliminary hearings, the preliminary hearing is, in essence, the formal court proceeding at which the prosecution must show that there is sufficient evidence to hold the defendant for trial in superior court. In fact, the prosecution must prove that there are reasonable grounds to believe both that a crime was committed and that the defendant was the person who committed it. This decision is made by the judge after hearing the evidence and witnesses presented by the prosecution.

The preliminary hearing can serve as a useful discovery device for the defendant, who can see and challenge parts of the prosecution's case. The preliminary hearing may well provide an uncomfortable experience for the victim. It is conducted in open court. The victim will face the defendant and the defendant's family and friends. If called to give evidence the victim may be cross-examined by the defense attorney. Indeed, to the victim, the preliminary hearing may appear to constitute a trial and in the past some victims have left the preliminary hearing believing that the case was over. The evidentiary standard required of the prosecution at this stage (generally "reasonable grounds to believe" or "probable cause") is, however, a far lower standard than the standard of proof of "beyond a reasonable doubt" required for conviction at trial. Hence, only some of the evidence the prosecutor has against the defendant will have to be offered and the victim may not be called to give evidence. The defendant has no federal constitutional right to a preliminary hearing, and it is sometimes bypassed by the prosecutor. When such a right is provided by a state, a defendant may still decide to waive it.

The next stage in a felony case may well be a grand jury hearing. Although a grand jury hearing is constitutionally required in federal felony cases, there is no such constitutional

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requirement in state cases. Some states require that a grand jury hearing be conducted. Others do not. The result is that in a state felony case either a preliminary hearing or a grand jury hearing or both may be held. To a great extent the grand jury hearing fulfills the same functions as the preliminary hearing; for its purpose is to test the sufficiency of the prosecutor's case and to determine whether there is probable cause to believe that the accused has committed a crime.

Unlike the preliminary hearing, the grand jury hearing is conducted in secret and is non-adversarial in nature. Neither the defendant nor the defendant's attorney usually participates in the proceedings, a feature of the process that is generally of comfort to a victim. The prosecutor simply presents his or her case (including the testimony of witnesses) to the citizen members of the grand jury. The victim will not encounter the defendant and may present evidence without fear of cross-examination by the defense attorney. The grand jury, which varies in size from state to state, is responsible, upon a finding of probable cause, for bringing the formal charges (a Bill of Indictment) against the accused. Since the prosecutor has brought the Bill of Indictment before the grand jury, the grand jury is said to be returning "a true bill." The grand jury, it should be noted, hears only the prosecutor's case and thus nearly always finds a true bill. As a consequence, the grand jury hearing has been felt by many to be merely a rubber stamp for the prosecutor.

After the prosecutor has successfully brought the case through the preliminary hearing, or grand jury hearing, or both, the case is ready to proceed to superior court. The first stage of the proceedings at superior court is the arraignment. At the arraignment, the accused is formally charged and enters a plea of guilty or not guilty. If the accused enters a plea of guilty, the next stage of the proceedings will be the sentencing. If the accused pleads not guilty, the case will proceed to trial.

Before trial, any of a number of pretrial motions may be brought; also, of course, a plea agreement may still be struck between the accused and the prosecutor. If the case does go to trial, the accused is entitled to a trial by jury, though this right can usually be waived. If the accused is found guilty, then he/she is sentenced accordingly. If the accused believes that the trial court has made an error, an appeal may be lodged.

The Changed Status of a Victim

As we have observed, there are numerous stages that a criminal case can go through. In a misdemeanor case there is the initial appearance, potential pretrial hearings, and then the trial itself. In a felony, there are, in addition, a preliminary (felony) hearing in lower court and/or a grand jury hearing and arraignment in the superior court to which the case is transferred unless a plea agreement has already been made.^{vi} Traditionally, the victim was involved only in the trial in a misdemeanor case and the preliminary hearing and trial in a felony case. The victim might not even be involved in those stages if the prosecutor decided that the victim's testimony was not needed and/or a plea agreement was made.

The victim's primary role in the court process is to provide, if needed in court, evidence to substantiate the prosecution's claim that a crime was committed and that it was the

defendant who committed it. Victims are unlikely to know how the court system works and are likely to be anxious about their role in the process. In the minority of cases where a trial is held, a victim is likely to be fearful about being called to the witness stand and in particular about being cross-examined by the defense attorney. Probably all of us have seen depictions of the defense attorney in a rape case delving into a victim's past sexual conduct and making it look like she was a willing participant in the sexual encounter.

Until about thirty years ago the victim was rarely informed about court process or the progress of the case in which she/he was involved, did not have any input into prosecutorial decisionmaking, and, if summoned to court, was often given little or no information about what would be expected at court. The way victims, particularly rape and sexual assault victims, were treated by the criminal justice system led to what was considered secondary victimization adding to and prolonging the pain and suffering inflicted as a result of the primary victimization of the criminal offense. Today, with the passage of victim's rights legislation, this situation has changed considerably.

1. Information about the Court Process and Progress of Case

In the past, when the victim was the "forgotten party" in criminal proceedings, victims might not be provided any information about either the processing or the final resolution of the case unless they were required to give evidence at trial. For the prosecutor, justice was served when the defendant pled guilty to an offense on the basis of the evidence the prosecutor had in the police reports. For the victim there was dissatisfaction with the process and no recourse except for deciding not to report any future victimization to the police. In addition, knowledge about the court process was assumed. Victims were not provided information about the different stages of the court process or told which ones they would have to attend and what would be expected of them. Generally victims were simply given notification that their attendance at court at a certain time was required. In a felony case, for example, the victim's first contact with the assistant prosecutor might be in court at the time of the felony hearing when she/he turned up in a crowded courtroom, not knowing who the prosecutor was or what was expected of her/him in court.

The organization of the public prosecutor's office can contribute greatly to the victim's confusion about the criminal court process. The staffing patterns of public prosecutor's offices are typically arranged so that a different attorney handles each stage of the court process. Since the court processing of cases is arranged by stage of the process (e.g. all initial appearances are handled in one court, all preliminary hearing in another etc.) it makes sense for the public prosecutor to assign a different attorney to each stage of the court process rather than have one assistant public prosecutor run from court to court handling a case from start to finish. For a victim this is both confusing and disturbing. Unlike the situation in a civil case, the victim does not have one attorney who is her/his attorney.

In addition, victims may not know how criminal cases are typically resolved: that about 90% of cases are resolved through a plea agreement. If they are participants in that small percentage of cases that go to trial, they may feel discomfort as a result of camaraderie they observe between their attorney, the assistant public prosecutor, and the defense

attorney. Knowledge that the prosecutors, defense attorneys and judges work together on a routine basis, may have gone to law school together or at some stage worked in the same office, and may be friends, may alleviate some of this discomfort.

Today, with the passage of victim rights legislation and changes in prosecutorial and judicial procedures, victims are generally provided with information about the court process, what they can expect at each stage, and what is actually happening in their case. Often this information is provided by victim assistants who work for the public prosecutor's office. Sometimes, particularly in cases of domestic violence and rape and sexual assault, this information is provided by personnel working for independent rape crisis and domestic violence agencies. States, and jurisdictions within states, differ with regard to the amount of assistance they provide victims. Some jurisdictions provide assistance only to victims of violent crime. Other jurisdictions provide assistance to victims of property crimes as well. In the Commonwealth of Massachusetts, for example, victims are routinely sent information about the court process and what is happening in their case and about their rights with regard to providing input into the decisionmaking process.

The provision of personnel responsible for providing victims with information and guiding them through the process is likely to make their experience with the court system both more comfortable and more satisfying. Having a single person whom they can contact for information is a lot easier than trying to track down the assistant public prosecutor who happens to be handling the case at a particular time. Having knowledge about the system can lessen anxiety. Thus, for example, victim concerns about appearing before a grand jury are likely to be greatly alleviated by knowing that the grand jury hearing is conducted in secret and is non-adversarial in nature with neither the defendant nor the defendant's attorney participating in these proceedings. Likewise concerns about encountering the offender and/or his family and friends in the court building may be lessened by knowledge that a safe waiting area is being provided for the victim to use during court proceedings. Some victims may even have a single assistant public prosecutor handle their case. Some public prosecutor's offices have implemented in certain specified cases such as sexual assault what is known as vertical prosecution, a system of prosecution that involves having one assistant public prosecutor handling the case from start to finish.

2. Acknowledging Victim Concerns and Allowing Victim Input into

Decisionmaking

In the past victim concerns were clearly not a focal point in the processing of a criminal case. Though defendant rights have to be the central focus in any criminal case, since it is the defendant who is on trial and risks being incarcerated and, in some states, being executed if convicted of a capital offense, far more attention is now paid to victim concerns. In addition, victims are often afforded the opportunity to provide input into decisions about case resolution that previously would be made by the prosecutor without consulting the victim.

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Integrating Crime Victims' Issues Into College and University Curricula**

In the past, for example, a prosecutor might accept a defendant's guilty plea to a lesser charge without consulting the victim. In a rape case a guilty plea to attempted rape may be considered a good outcome for the prosecutor who prefers the certainty of a guilty plea to a reduced charge over the potentially lengthy, costly, and risky prospects of going to trial on the full completed rape charge. For a rape victim, however, there might be considerable anguish at the prospect of justice not being served and the defendant being allowed to admit he attempted to rape her as opposed to admitting he actually raped her.

Today, the victim frequently has the right to be consulted before such a decision is made and may be provided with a rationale for the prosecutor's decision.^{vii} In the federal system, for example, the prosecutor is instructed to "make reasonable efforts to notify identified victims of, and consider victims' views about, prospective plea negotiations."^{viii}

The criminal justice process has been modified in other ways to better accommodate victim concerns. After the offender has been arrested the victim may be concerned about further victimization by the offender. Though the primary criterion for determining whether the accused should be released prior to trial is whether she/he will turn up for trial, victim safety is also a factor that can be taken into account by the court in deciding whether to release the defendant prior to trial.^{ix} In the federal system, for example, the court is to order the release of the defendant "unless the judicial officer determines that such release will not reasonably assure the appearance of the person as required or will endanger the safety of any other person or the community."^x

The effect of the defendant's alleged actions has always constituted an element in determining the charges brought against the defendant (i.e. if the victim has been killed it will be some type of criminal homicide charge, if the victim has been injured some type of assault offense) and thus impacted the defendant's sentence.

Nowadays, however, the victim has the opportunity to provide direct input into the sentencing process by describing in a victim impact statement the short and long term effects of the crime on his or her physical, psychological, and financial well-being and these effects are taken into consideration by the judge when the defendant is sentenced.^{xi} In sentencing the judge will also consider whether the defendant should be ordered to pay the victim restitution, a sentence of the court that has obvious benefits for a victim in terms of providing economic compensation for losses, holding the offender accountable, and being able to see the criminal justice system as responsive to their needs.^{xii}

Even the trial process has been modified to lessen the negative impact on the victim. For example, nearly all states have passed rape shield laws, laws which are designed to limit the extent to which the defense attorney can delve into the victim's past sexual conduct.^{xiii} These modifications to the court process have helped advance the interests of victims in the processing of criminal cases and lessen the secondary victimization inflicted upon them by being processed through the criminal justice system.

Finally, some court systems have moved away from the traditional method of processing a criminal case and adopted a restorative justice model. This model of justice focuses, in

**Post-Secondary Education:
Integrating Crime Victims' Issues Into College and University Curricula**

a variety of different ways, on involving the victim, the offender, and the community in handling the problems generated by criminal activity.

The overall objective is to “promote greater understanding of the impact that crime has on victims and their families, offenders’ families, neighborhoods, and communities and to promote offender accountability and a positive learning experience for all involved participants.”^{xiv} This is to be achieved by moving from a process that is adversarial in nature and focuses on punishing the offender to one that highlights the harm suffered by both the victims and their communities and seeks to restore them to the condition that existed prior to the infliction of criminal harm.^{xv}

More specifically, restorative justice seeks to establish "a process where all stakeholders affected by an injustice have an opportunity to discuss how they have been affected by the injustice and to decide what should be done to repair the harm."^{xvi} As in civil law, where the victim takes legal action against the offender, the victim plays a central role in the process of restorative justice and the final resolution of the issue at hand.^{xvii}

Victim Assistance Programs

As has been noted in this document, in the past forty years there has been considerable movement to change the victim’s status as the “forgotten party” in a criminal case. In particular, victim rights legislation has been passed seeking to provide victims with information about the processing of their case and to include their input in the decisionmaking process in the case. Passing legislation does not require resources. Ensuring that the rights encompassed in that legislation, however, does. Though independent groups, such as rape crises centers and domestic violence programs have long been providing victims with information about the court process and assistance with the criminal justice system, the passage of victim rights legislation has seen more formalized victim assistance programs established, primarily through the public prosecutor’s office or the court system itself.

Since 1986 financial support for these programs has been provided by the federal government through the Victims of Crime Act (VOCA). VOCA-funded victim assistance funding is allocated to states, the District of Columbia, and territories based on a formula tied to the size of the population. States then award subgrants to service providers in law enforcement, noncriminal justice governmental agencies (e.g., social services, hospitals, mental health agencies, public housing), private nonprofits organizations (e.g., rape crisis centers, shelters, religious organizations), and American Indian tribes or organizations. Each state must allocate at least 10 % of its funding to serve victims in each of three priority areas: domestic violence, sexual assault, and child abuse. In addition, they must dedicate 10% of funding to historically underserved victims within that state, which may include family members of homicide victims, adults molested as children, victims of robbery and physical assault, and victims of drunk drivers and elder abuse.^{xviii}

The amount of money provided for victim assistance programs by VOCA funding has increased dramatically from \$41 million in 1986 to \$370 million in 2007.^{xix} The vast majority of the funds are used to provide assistance to the victims of violent crimes, in

**Post-Secondary Education:
Integrating Crime Victims' Issues Into College and University Curricula**

particular the victims of domestic violence, who typically account for almost half of the victims served.^{xx} In addition to helping to provide services that respond to the emotional and physical needs of victims, and their needs for safety, VOCA funding is used to pay the salaries of the trained advocates who explain the legal processes to the victims, keep them updated on the progress of their cases, accompany them to criminal court proceedings, and assist them with other legal processes such as filing restraining orders. In fiscal year 2008 2,453,304 victims received criminal justice support and advocacy, and 468,747 victims received emergency legal advocacy through VOCA funding.^{xxi} At the federal level VOCA funding provided support in fiscal year 2008 for 170 victim witness advocates.^{xxii}

Conclusion

In sum, though systems vary, much has changed to make the court process more comfortable for the victim and more responsive to their needs and interests. Thus:

Court advocates may explain the court process and help prepare the victim for any court appearances. Thus,

- Court advocates may advise the victim about the progress of the case.
- Victim concerns may be addressed in pretrial decisions.
- The victim may be consulted prior to the prosecutor deciding how to resolve the case.
- The victim may submit a victim impact statement.
- The victim may be awarded restitution.

For More Information

For the steps that are generally followed in the criminal justice process, go to:
www.bjs.gov/content/largechart.cfm

ⁱ OVC. (2006). *Introductory Workshop Participant Manual: A component of the project "Victims of Crime: A Social Work Response Building Skills to Strengthen Survivors."* Available at: www.ojp.usdoj.gov/ovc/assist/NASW_Kit/pdf/02_participant_manual.pdf

ⁱⁱ 18 U.S.C. 3771(a). For general information on the Justice for All Act see: OVC. *Fact sheet: What is the Justice for All Act?* Available at: www.ojp.usdoj.gov/ovc/publications/factshts/justforall/content.html

**Post-Secondary Education:
Integrating Crime Victims' Issues Into College and University Curricula**

ⁱⁱⁱ For a view of the flow of a criminal incident through the whole criminal justice system from entry into the system until final disposition see Bureau of Justice Statistics *Criminal justice system flowchart* available at <http://bjs.ojp.usdoj.gov/content/largechart.cfm>.

^{iv} *Brady v. Maryland* 373 U.S. 83, 87 (1963).

^v *Baldwin v. N.Y.* 399 U.S. 117 (1970).

^{vi} For general information about the court process see: Siegel, L.S., Schmalleger, F. & Worrall, J. L. (2011). *Courts and Criminal justice in America*. Saddle River, N.J: Prentice Hall.

^{vii} For more information about victim input into plea agreements see OVC. (2002). *Victim Input Into Plea Agreements, Legal Series Bulletin#7*. Washington, D.C.: U.S. Department of Justice. Available at: www.ncjrs.gov/ovc_archives/bulletins/legalseries/bulletin7/welcome.html

^{viii} OVC. (2005). *Attorney General guidelines for victim and witness assistance*, p. 30. Washington, D.C.: U.S. Department of Justice. Available at: www.justice.gov/olp/pdf/ag_guidelines.pdf

^{ix}. For more information about pretrial release and considerations of victim safety see: 18 USCS Sec. 3142, Siegel et al., (2011), ch. 11, and Neubauer et al., (2011), ch. 11.

^x 18 USCS Sec. 3142.

^{xi} For more information about victim impact statements see OVC. (1999). *Promising victim-related practices and strategies in probation and parole*, Ch 2. Washington, D.C.: U.S. Department of Justice. Available at: <http://ojp.usdoj.gov/ovc/publications/infores/probparole/probparole.pdf>

^{xii} OVC. (1999). *Promising victim-related practices and strategies in probation and parole*, p. 31. Washington, D.C.: U.S. Department of Justice. Available at: <http://ojp.usdoj.gov/ovc/publications/infores/probparole/probparole.pdf>. For additional information about restitution see also: OVC. (2002). *Ordering restitution to Crime victims, Legal Series Bulletin#6*. Washington, D.C.: U.S. Department of Justice. Available at: www.ncjrs.gov/ovc_archives/bulletins/legalseries/bulletin6/ncj189189.pdf

^{xiii} For more information about rape shield laws see: Call, J.E., Nice, D., & Talarico, S. M. (1991). An analysis of state rape shield laws. *Social Science Quarterly*, 72, 774-788.

^{xiv} OVC. (1999). *Promising victim-related practices and strategies in probation and parole*, p. 55. Washington, D.C.: U.S. Department of Justice. Available at: www.ovc.gov/publications/infores/probparole/probparole.pdf

^{xv} For more information about restorative justice see OVC. (1999). *Promising victim-related practices and strategies in probation and parole*, Ch. 4. Washington, D.C.: U.S.

**Post-Secondary Education:
Integrating Crime Victims' Issues Into College and University Curricula**

Department of Justice. Available at:
www.ovc.gov/publications/infores/probparole/probparole.pdf.

^{xvi} Braithwaite, J. (2004). Restorative justice and de-professionalization. *The Good Society*, 13, 28 - 31.

^{xvii} In a tort action in civil law the goal is to restore the wronged party to the condition she/he would have been in had the wrong not been inflicted. Thus, if A was the victim of a traffic accident due to the fault of B, A might sue B for medical expenses, pain and suffering, time lost from work, property damage etc.

^{xviii} <http://ojp.usdoj.gov/ovc/welcovc/reporttonation2009/ReporttoNation09Part2.pdf>

^{xix} OVC. (2009). *Report to the nation for fiscal years 2007-2008*, p. 21. Washington, D.C.: U.S. Department of Justice.

^{xx} OVC. (2009). *Report to the nation for fiscal years 2007-2008*, pp. 21-22. Washington, D.C.: U.S. Department of Justice.

OVC. (2009). *Report to the nation for fiscal years 2007-2008*, p. 22. Washington, D.C.: U.S. Department of Justice.

OVC. (2009). *Report to the nation for fiscal years 2007-2008*, p. 8. Washington, D.C.: U.S. Department of Justice.