



Module 3

Victims' Rights Laws in the United States



Office for Victims of Crime
OVC
"Putting Victims First"



Learning Objectives

- ❖ **Describe 10 major categories of victims' rights laws.**
- ❖ **Identify types of records needed to document losses for victim restitution.**
- ❖ **Discuss actions you can take to ensure that victims' rights are enforced.**



Activity

Reverse Miranda Worksheet 3.1

- ❖ **Read the case scenario.**
- ❖ **Answer the questions on the worksheet.**
- ❖ **Discuss responses with others at your table.**



Activity

Victims' Rights Laws in the United States

- ❖ Working in pairs, share key points of victims' rights laws in your jurisdiction.
- ❖ In the large group, summarize similarities and differences among jurisdictions.



Ten Victims' Rights

- 1. Right to be treated with dignity and respect**
- 2. Right to information and referral**
- 3. Right to notification**
- 4. Right to be present**
- 5. Right to be heard**



Ten Victims' Rights

- 6. Right to reasonable protection from intimidation and harm**
- 7. Right to restitution**
- 8. Right to apply for victim compensation (violent crimes)**
- 9. Right to speedy proceedings**
- 10. Special rights and protections**



Right To Be Treated with Dignity and Respect

- ❖ **Treated with sensitivity**
- ❖ **Included in:**
 - ◆ **Most states' constitutional amendments that define victims' rights.**
 - ◆ **Most states' victims' bills of rights.**
 - ◆ **Crime Victims' Rights Act within the Justice for All Act for federal crime victims.**



Utah Constitution

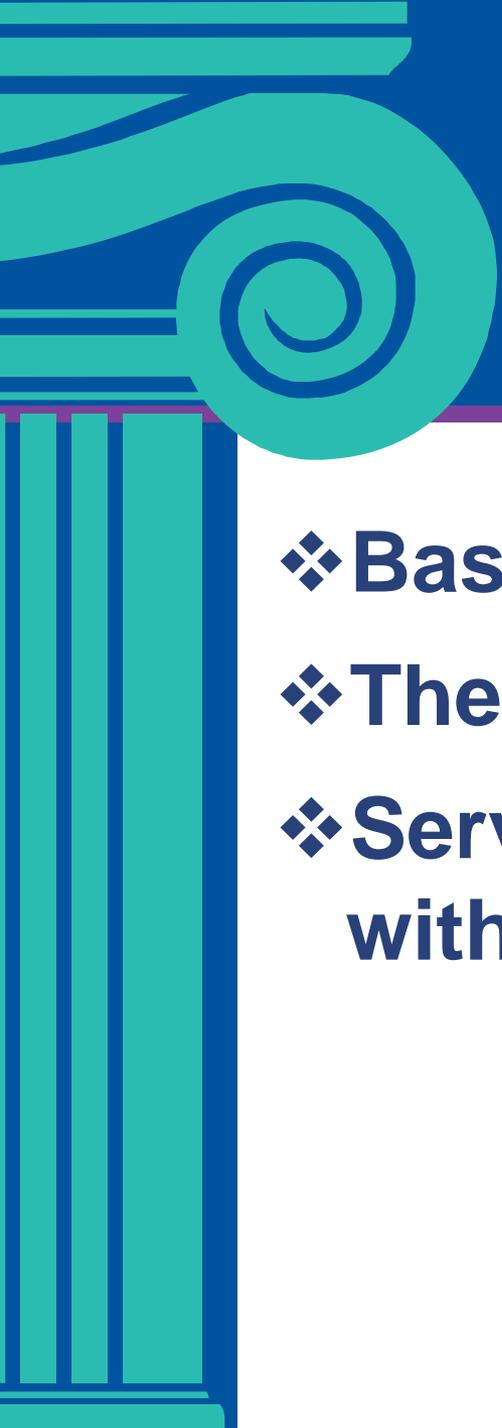
- ❖ **Dignity = Treating with worthiness, honor, esteem**
- ❖ **Fairness = Reasonable, even-handed, impartial treatment**
- ❖ **Respect = Treating with regard and value**



Activity

Dignity and Respect

- ❖ **What do dignity and respect specifically mean in the context of how victims are treated by the criminal justice system, and by society as a whole?**



Right to Information and Referral

- ❖ **Basic victims' rights**
- ❖ **The justice process**
- ❖ **Services available to help cope with the aftermath of crime**



Right to Notification

- ❖ **Right to be notified**
- ❖ **“Threshold right”**
 - ◆ **Of statutory and constitutional rights available**
 - ◆ **Of the status of the case and alleged or convicted offender**
 - ◆ **At all junctures throughout the criminal justice process where crime victims have the right to participate**



Right to Notification: Historical/Legal Perspective

The 1982 President's Task Force on Victims of Crime Final Report recommended victims be provided:

- ❖ **Case status information.**
- ❖ **Prompt notice of scheduling changes for court proceedings.**
- ❖ **Prompt notice of defendants' arrest and bond status.**



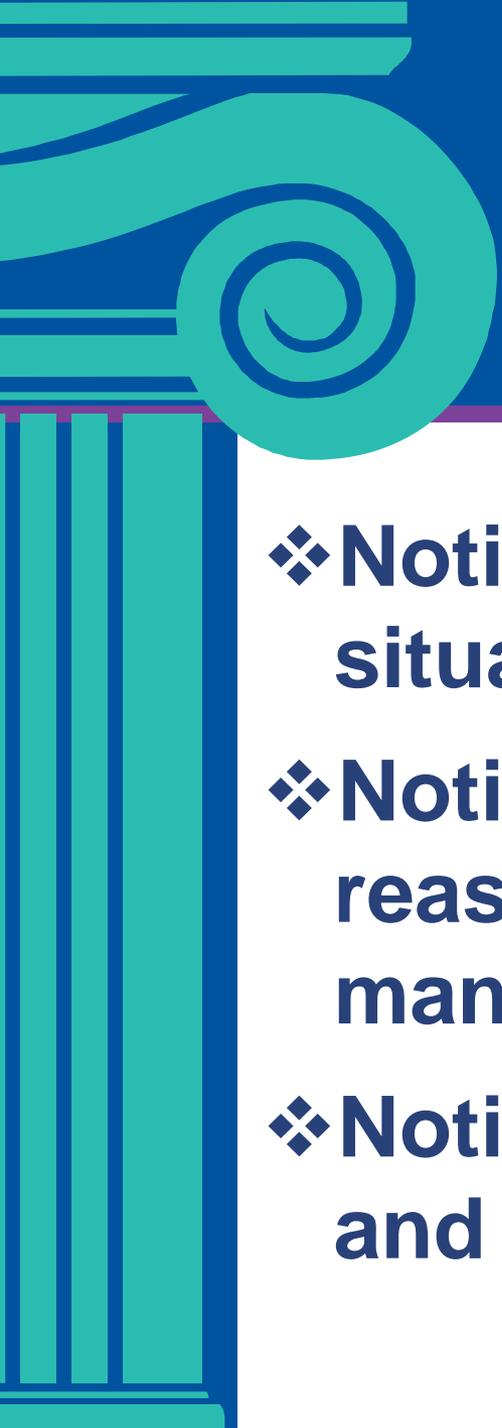
Right to Notification: Historical/Legal Perspective

- ❖ Today, all 50 states, the District of Columbia, and the federal justice system have notification laws.
- ❖ There are at least 67 points of notification for victims.



Range of Victim Notification Processes

- ❖ In person
- ❖ By telephone
- ❖ By letter
- ❖ By e-mail
- ❖ By text message
- ❖ Through technology
- ❖ Through agency Web sites



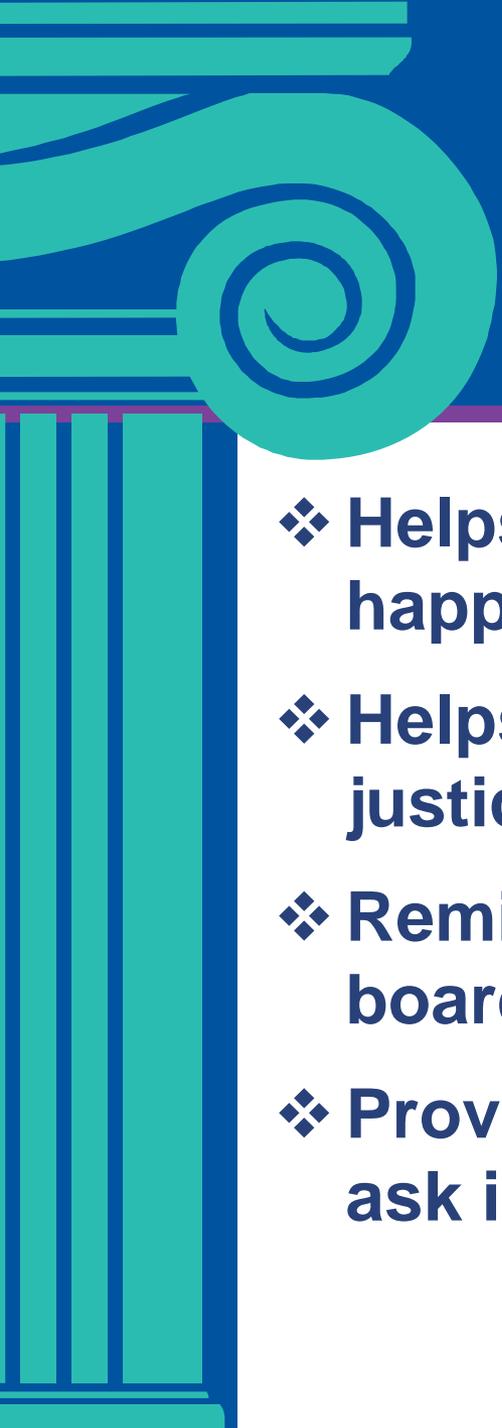
Key Enforcement Issues

- ❖ **Notification must be situation-specific.**
- ❖ **Notice must be given in a reasonable, accurate, and timely manner.**
- ❖ **Notification should be early, often, and accurate.**



Right To Be Present

- ❖ **Present during criminal justice proceedings**
- ❖ **Have a voice at critical hearings related to their cases**



Importance of the Right To Be Present

- ❖ **Helps keep victims informed about what is happening in their case.**
- ❖ **Helps victims take an active role in securing justice.**
- ❖ **Reminds judge, jury, court personnel, parole boards of human consequences of crime.**
- ❖ **Provides victims with information needed to ask informed questions.**



When Might Victims NOT Be Allowed To Be Present?

- ❖ **If they will be called as a witness.**
 - However, the prosecutor can schedule the victim/witness to testify early in the trial, so they can attend the proceeding.
- ❖ **If the defense motions the court to exclude the victim.**
 - Prosecutor can contest such a motion and request clear rationale for victim/witness exclusion for the court record.



**Does the mere presence of a
crime victim hurt the
defendant's rights?**



Right To Be Heard

Allows victims:

- ❖ To express their concerns about the status of offenders.
- ❖ The opportunity to tell the court or paroling authority about the impact the crime has had on them.



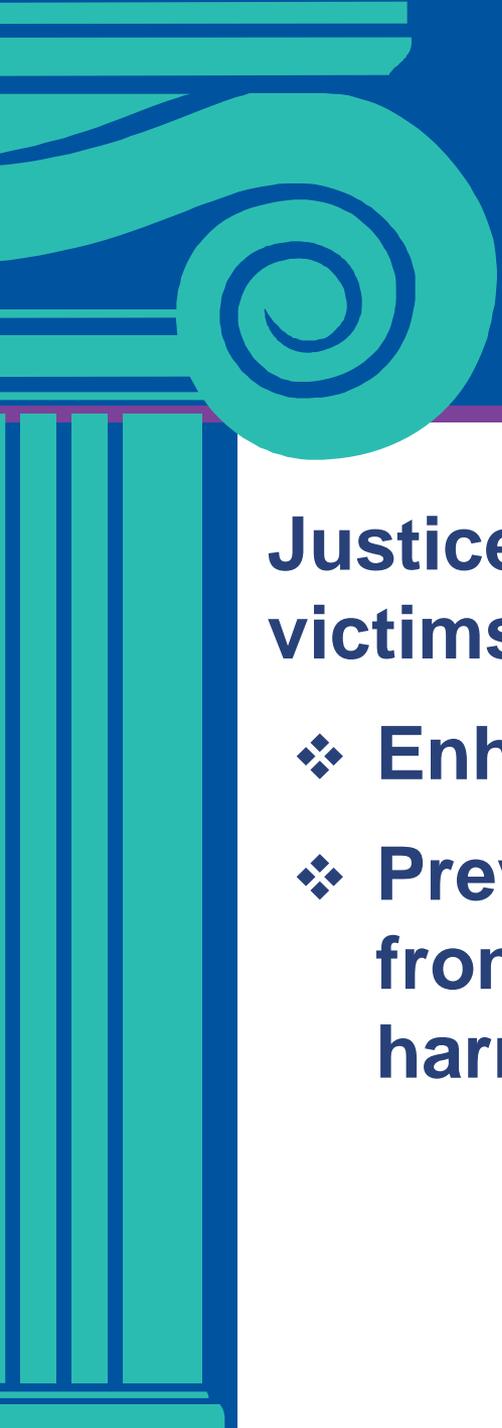
Right To Be Heard: Historical/Legal Perspective

- ❖ **1976: Fresno County, CA, Chief Probation Officer believed it was unfair that no victim impact information was presented at sentencing.**
- ❖ **All 50 states and the federal system have allowed victim impact evidence at sentencing.**
- ❖ **Majority of states require the sentencing authority to consider victim impact statements in the sentencing decision.**



Victim Impact Statements

- ❖ **Oral**
- ❖ **Written**
- ❖ **Audio**
- ❖ **Video**
- ❖ **Teleconference**
- ❖ **Pre-sentence investigation or pre-adjudication investigation**



Right to Reasonable Protection from Intimidation and Harm

Justice agencies have a duty to offer victims measures to:

- ❖ **Enhance their personal safety.**
- ❖ **Prevent alleged or convicted offenders from intimidating, threatening, or harming victims.**



Historical/Legal Perspective

- ❖ **No law can guarantee protection.**
- ❖ **Many states assert a right to “reasonable protection.”**
- ❖ **Many states have laws granting the right to reasonable protection during criminal justice process.**
- ❖ **State constitutional amendment.**



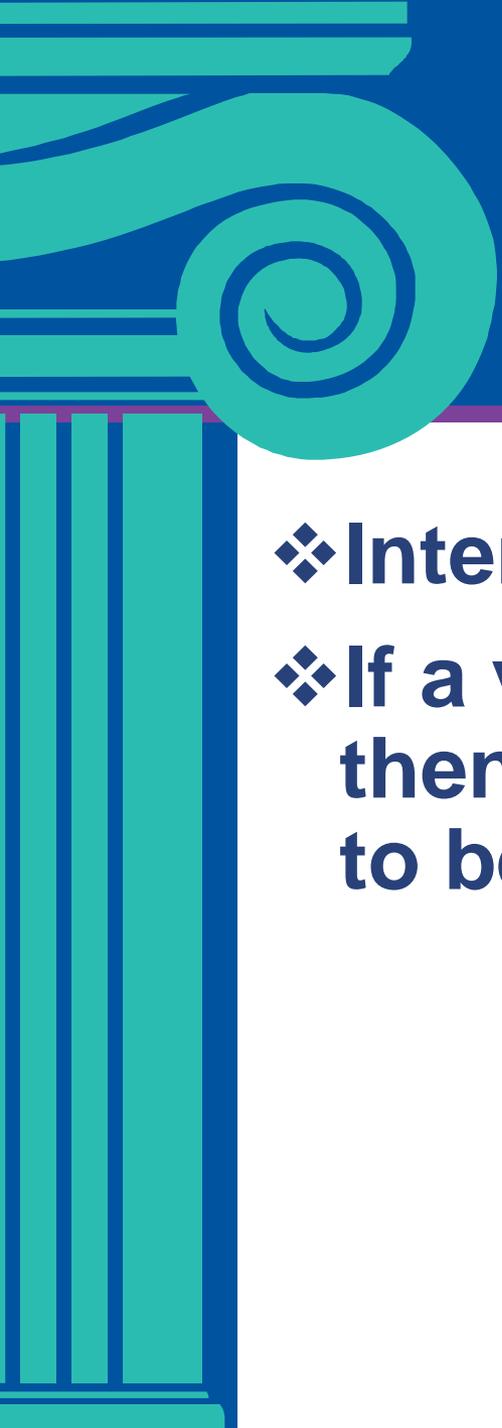
Safety Concerns and Victims' Rights Laws

- ❖ Intimidation and harassment
- ❖ Safe and secure waiting areas
- ❖ Specific offenses for harassment
- ❖ No contact orders
- ❖ Automatic revocation of release
- ❖ Detain defendants who pose danger



What Can Victim Service Providers Do?

- ❖ **Protection or no contact order**
- ❖ **Contact information**
- ❖ **Decisionmaking, safety plans**
- ❖ **Conditions of protection order, confirmation**



Enforcement

- ❖ **Interaction of victims' rights laws**
- ❖ **If a victim has a right to protection, then he/she implicitly has the right to be heard.**



Right to Restitution

- ❖ **Civil remedy**
- ❖ **Attempts to help the victim to recover, and to hold the offender accountable**



Injuries Have Costs

- ❖ **Victims suffer physical, emotional, financial, social, and spiritual injuries.**
- ❖ **Restitution shifts some burden to convicted criminal offenders.**



Right to Restitution: Historical/Legal Perspective

- ❖ Restitution the “oldest” victim right.
- ❖ Restitution can be ordered in all cases, including:
 - ◆ Cases of property crime.
 - ◆ For victims of violent crime and survivors of homicide.
 - ◆ For victims of theft of services, fraud, forgery, and violation of vehicle and traffic laws.



Activity

Documenting Losses for Victim Restitution: Edith and Charles Worksheets 3.1, 3.2

- ❖ **What are their losses?**
- ❖ **Turn in worksheets 3.1 and 3.2.**



Restitution

- ❖ **State laws vary.**
- ❖ **Some laws make restitution mandatory.**
- ❖ **Other laws give more discretion based on ability to pay.**



Restitution Considerations

- ❖ **First payment**
- ❖ **Request restitution**
- ❖ **Ability to pay**
- ❖ **Civil orders**
- ❖ **Current case law**



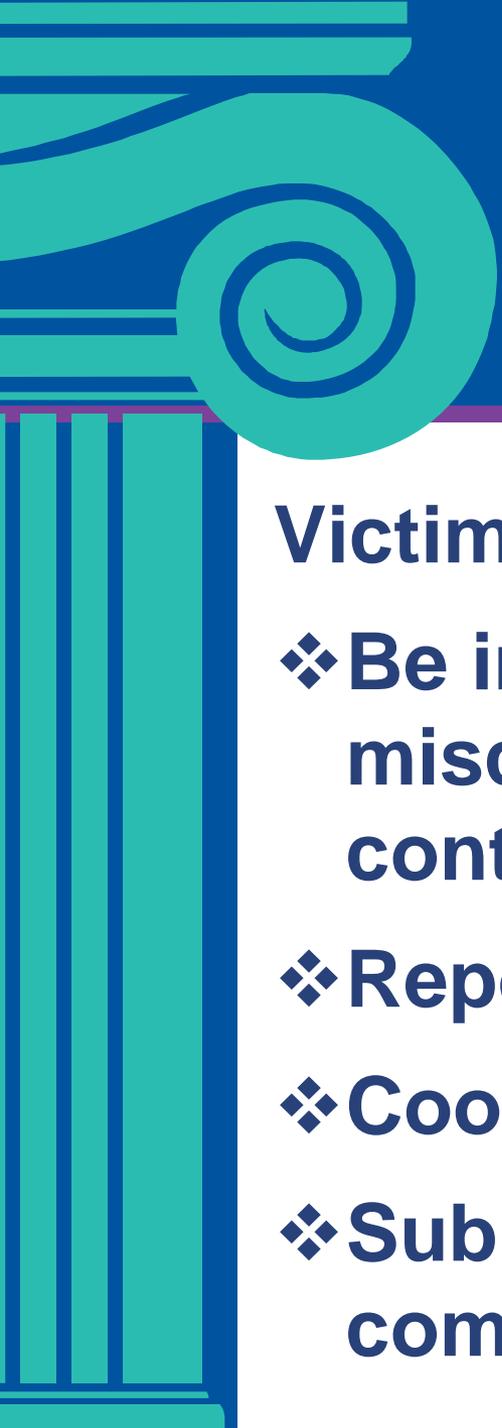
Right To Apply for Compensation

- ❖ **Medical costs**
- ❖ **Mental health counseling**
- ❖ **Funeral and burial costs**
- ❖ **Lost wages or support**



Who Is Eligible for Compensation?

- ❖ **Every state has a crime victim compensation program.**
- ❖ **State laws dictate the range of compensation.**
- ❖ **Almost all states have minimum loss requirements.**
- ❖ **All states have maximum benefit levels.**



Who Is Eligible for Compensation?

Victim must:

- ❖ Be innocent of criminal activity or misconduct that caused/ contributed to victim's injury/death.
- ❖ Report the crime promptly.
- ❖ Cooperate with police, prosecutors.
- ❖ Submit a timely application to the compensation program.



Who Is Eligible for Compensation?

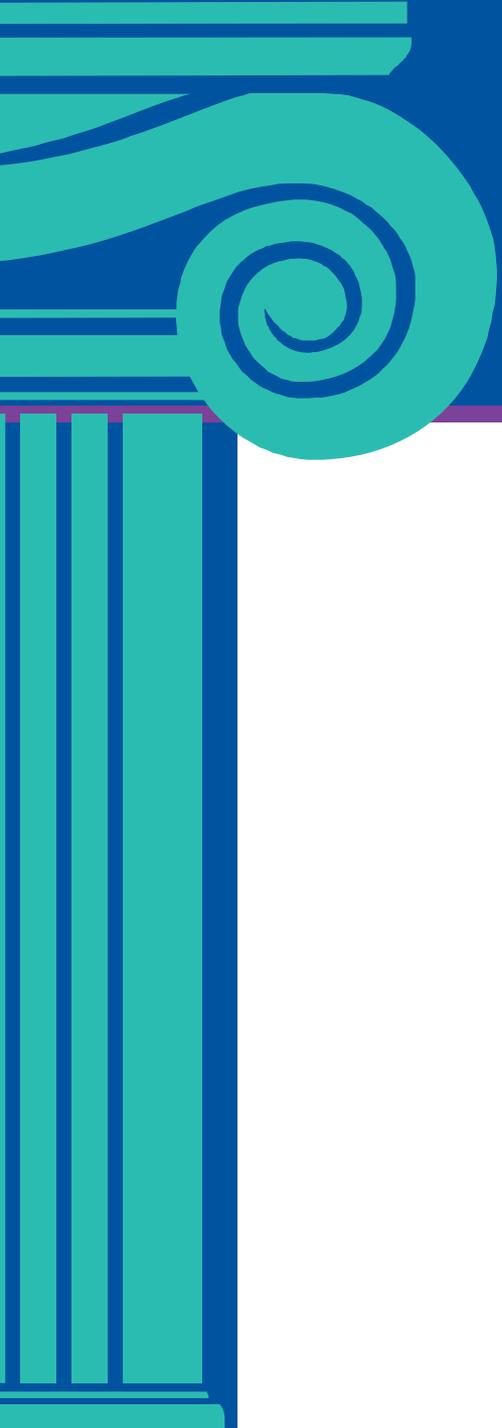
Victim must:

- ❖ **Not be involved in illegal activity at the time of the crime.**
- ❖ **Have an expense that is not covered by another source.**



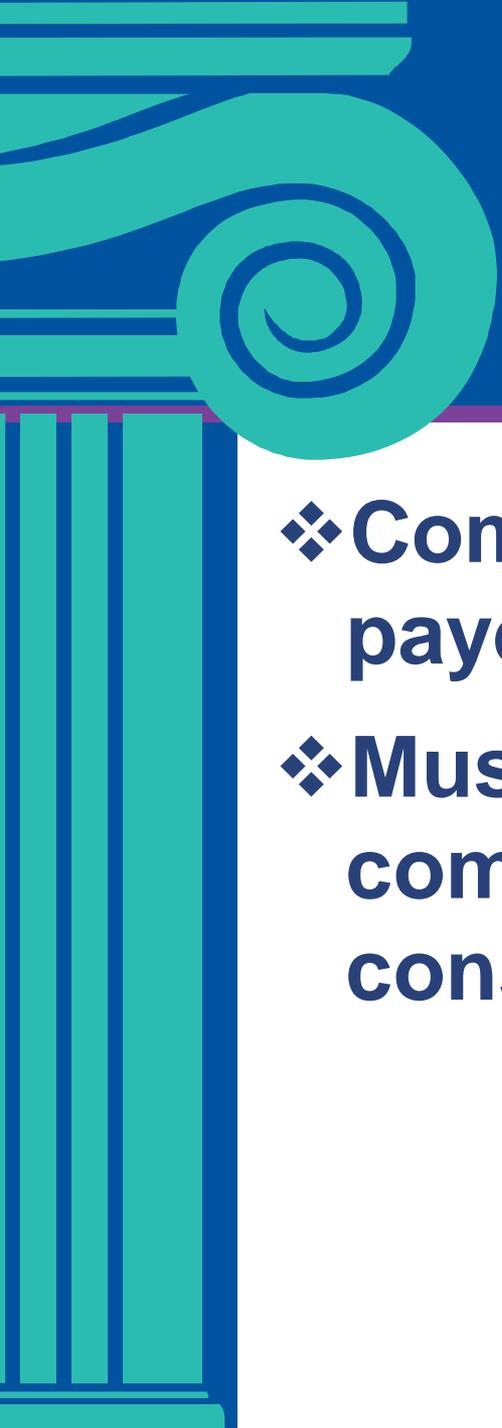
Right To Appeal the Denial

- ❖ **Appeal should state why victim believes the denial is in error.**
- ❖ **For the appeal to be considered, victim must follow appeal procedures of the compensation program in the state where the crime occurred.**



Activity

State Victim Compensation Forms



Collateral Resources

- ❖ **Compensation programs are payers of last resort.**
- ❖ **Must be accessed before compensation programs will consider payment.**



Right to Proceedings Without Unreasonable Delay

- ❖ Court required to consider adverse impact delays may have on victim
- ❖ Hardship of delay of scheduled proceedings
- ❖ Repeated continuances cause serious hardships and trauma
- ❖ Right to a speedy trial
- ❖ Legitimate delays



What Can Victim Service Providers Do?

- ❖ **Work with the prosecutor to encourage objections to unnecessary delays.**
- ❖ **Inform victims of their right to have input into and/or object to delays.**
- ❖ **Include information about the victim's right to "speedy disposition" in judicial training programs.**



Special Rights and Protections

- ❖ **Employer intercession**
- ❖ **Prompt property return**
- ❖ **Victim's right to privacy**
 - ◆ **Protection of the victim's contact information**
 - ◆ **Protection of the victim's identity**



What Can Victim Advocates Do?

- ❖ **Strong working knowledge of victims' rights laws.**
- ❖ **Work with the prosecutor.**
- ❖ **Inform victims of their right to have input, object to delays.**
- ❖ **Speedy disposition.**
- ❖ **State compilations of victims' rights laws.**



Key Events

- ❖ Historical perspective, moving from private to public prosecution
- ❖ Constitutional amendments
- ❖ *United States v. McVeigh*



Enforcement Efforts

- ❖ **Federal Crime Victims' Act of 2004**
- ❖ **State initiatives—Maryland, Arizona, Colorado, Wisconsin**
- ❖ **Legal Advocates for Victims—Connecticut**
- ❖ **National Crime Victim Law Institute**
- ❖ **State crime victim legal clinics**



Role of Victim Advocates

- ❖ **Have a strong knowledge of victims' rights laws.**
- ❖ **Keep up-to-date on any changes in your state laws.**
- ❖ **Begin to follow case law on behalf of victims' rights.**
- ❖ **Identify if your state has an enforcement mechanism.**



Mission of Victims' Rights Advocacy

- ❖ **Ensure that all crime victims have every opportunity to exercise their rights.**
- ❖ **Know current victims' rights laws.**
- ❖ **Understand enforcement measures to help guarantee these rights.**



Activity

What Can I Do?

- ❖ **What can you do to help ensure that the right is enforced?**



Review of Learning Objectives

- ❖ **Describe 10 major categories of victims' rights laws.**
- ❖ **Identify types of records needed to document losses for victim restitution.**
- ❖ **Discuss actions you can take to ensure that victims' rights are enforced.**



Closing of Module 3

- ❖ **Questions?**
- ❖ **Comments?**