

PICKING UP THE PIECES

YOUR RIGHTS AND
RESPONSIBILITIES
AS A CRIME
VICTIM



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STATE OF OHIO

TABLE OF CONTENTS

Introduction	1
Crime Victim Rights	3
The Ohio Constitutional Amendment for Victims Rights	3
Victims Rights Under the Ohio Revised Code	4
1. Right to Receive Information About Crime Victim Rights	4
2. Right to Appoint a Representative	4
3. Right to Receive Current Information about the Criminal Investigation	5
4. Right to be Notified When the Offender is Arrested or Released Before Trial	5
5. Right to Reasonable Return of Property	6
6. Right to Information From, and Meaningful Discussions With, the Prosecutor	7
7. Right to Be Free From Intimidation	13
8. Right to Meaningful Participation During the Trial	13
9. Right to Make a Statement at Sentencing About the Impact of the Crime	15
10. Right to Participate in Criminal Proceedings Without Jeopardizing Employment Status	17
11. Right to Receive Notice If Violent Offender Escapes Custody Before Trial or Sentencing ..	18

(Continued)

TABLE OF CONTENTS

12. Right to Receive Information After Sentencing	18
13. Right to Information and Input About Adult Defendant's Incarceration and Parole Status	19
14. Rights After Being Victimized by a Juvenile Offender	21
15. Right to Request an Anti-Stalking Protection Order	25
16. Special Rights of Victims of Sexual Abuse	25
17. Special Rights of Victims of Domestic Violence	29
18. Special Rights of Victims of Child Abuse	32
19. Rights of Victims to Offender's Movie or Book Profits	35
20. Right to Compensation for Economic Losses Resulting From Crime	35
21. Other Assistance to Victims	40
Definition of Terms	42
List of State and Federal Victim Services	51

INTRODUCTION

The purpose of this booklet is to notify crime victims of their rights and explain these rights as they currently exist under Ohio law. The information in this booklet should be



very helpful to a crime victim or a close friend or family member of a victim. Although detailed information cannot be included within these pages, additional information can be obtained by contacting your local law enforcement agency, local prosecuting attorney, private attorney, or victim service provider.

Victims' rights are generally applicable whether the perpetrator is an adult or a juvenile. However, the terms used may be different (for example, an adult suspect during prosecution is called a "defendant," whereas a minor is called an "alleged juvenile offender"). Some aspects of the justice process may also be different (for example, the juvenile court rather than the criminal court conducts juvenile justice proceedings).

If you have been a victim of any of the crimes listed on page 2 (or, in the case of a murder, if a member of your family has been killed), Ohio law gives you a variety of specific rights before, during, and after the trial or juvenile proceeding.

Ohio law gives a victim of any of the crimes listed below (or, in the case of a murder, a member of the victim's family), a variety of specific rights before, during, and after the trial or juvenile proceeding.

- ◆ Any felony offense (for example, murder, rape, kidnapping, felonious assault, vehicular assault).
- ◆ Aggravated menacing.
- ◆ Assault.
- ◆ Domestic violence.
- ◆ Intimidation of crime victim or witness.
- ◆ Menacing.
- ◆ Menacing by stalking.
- ◆ Negligent homicide.
- ◆ Vehicular homicide.
- ◆ Aggravated vehicular homicide.
- ◆ Sexual Imposition.

[See Ohio Revised Code Section 2930.01 (A)]

Victims of crime experience physical, emotional, and economic hardships long after the date of the injurious criminal act. Victims of any of the crimes listed above, and some additional ones, who have incurred economic losses are encouraged to read about the Ohio Victims of Crime Compensation Program located on page 35 of this booklet. Reimbursement for economic losses may be available even if the offender is unknown or never prosecuted.

Numerous terms used in this booklet are defined in the “**DEFINITION OF TERMS**” found at the end of the booklet.

CRIME VICTIM RIGHTS

A victim of any of the crimes listed in the previous section has certain constitutional and statutory rights. Those constitutional rights are derived from the Constitution of Ohio. Statutory rights are derived from Section 2930 of the Ohio Revised Code. A victim's rights under the laws of Ohio are explained on the following pages. The relevant Ohio Revised Code section is listed after each segment to assist in easily locating the entire text of the law.

THE OHIO CONSTITUTIONAL AMENDMENT FOR VICTIMS RIGHTS

A victim of a crime in Ohio has certain constitutional rights, which are found in Article I, Section 10a. of the Constitution of Ohio:

Article I, Section 10a.

Victims of criminal offenses shall be accorded fairness, dignity, and respect in the criminal justice process, and as the General Assembly shall define and provide by law, shall be accorded rights to reasonable and appropriate notice, information, access, and protection and to a meaningful role in the criminal justice process. This section does not confer upon any person a right to appeal or modify any decision in a criminal proceeding, does not abridge any other right guaranteed by the Constitution of the United States or this Constitution, and does not create any cause of action for compensation or damages against the state, any political subdivision of the state, any officer, employee, or agent of the state or any political subdivision, or any officer of the court.

VICTIMS RIGHTS UNDER THE OHIO REVISED CODE

RIGHT TO RECEIVE INFORMATION ABOUT CRIME VICTIM RIGHTS

1

The law enforcement agency investigating the crime and the local prosecutor are both responsible for providing a crime victim with this booklet upon their first contact with the victim. This is to ensure that victims are aware of their rights as crime victims. The law enforcement agency will also be providing important information about what is available locally to further assist in obtaining medical care, counseling, housing, emergency services, and other types of assistance. [ORC § 2930.04]

RIGHT TO APPOINT A REPRESENTATIVE

2

A crime victim may authorize a family member or another person to act as a representative during criminal or juvenile proceedings. Also, someone may act as a representative if the victim is a minor, incapacitated, incompetent, or deceased. This allows a family member, or another person who has been chosen by the victim, to participate in the criminal justice system on behalf of the victim, and with the same rights the victim would have.

After being notified of who the authorized representative is, the prosecutor or the court must provide notices only to the representative. All rights by law for the victim must then be requested by the representative. [ORC § 2930.02]

RIGHT TO RECEIVE CURRENT INFORMATION ABOUT THE CRIMINAL INVESTIGATION

3

As soon as practicable after its initial contact with the victim, the law enforcement agency conducting the criminal investigation must provide the following:

- ✓ Business telephone number of the law enforcement officer assigned to investigate the case.
- ✓ Office address and business telephone number of the prosecutor that is assigned to the case. [ORC § 2930.04(B)]



RIGHT TO BE NOTIFIED WHEN THE OFFENDER IS ARRESTED OR RELEASED BEFORE TRIAL

4

Law enforcement officials must notify the victim within a reasonable time after the suspect's arrest or detention, with the following information:

- ✓ Name of the person(s) arrested, also called the suspect (or defendant, if an adult, or alleged juvenile offender, if a juvenile).
- ✓ Whether the suspect is eligible for pretrial release.

- ✓ The telephone number of the law enforcement agency.
- ✓ A telephone number to call to inquire if the suspect has been released.

If the prosecutor is notified that the suspect has committed or threatened to commit one or more acts of violence or intimidation against the victim, victim's family, or the victim's representative, the prosecutor may file a motion asking the court to reconsider the conditions of the bond or personal recognizance granted to the suspect, or to consider returning the suspect to incarceration or detention. [ORC § 2930.05]

RIGHT TO REASONABLE RETURN OF PROPERTY

5

If personal property has been taken as evidence, it will be safely held until it is no longer needed as evidence. Property seized as evidence may be released by the prosecutor or by a judge who hears the criminal case against the suspect. In some cases, the property can be photographed by the law enforcement agency and returned to the owner. If the property is identified as being needed as evidence for the



suspect's defense, it will be retained by law enforcement until the court can make a decision about its release, taking into account the victim's need for the property and the suspect's claim that the property is needed as evidence. [ORC § 2930.11; 2933.41]

RIGHT TO INFORMATION FROM, AND MEANINGFUL DISCUSSIONS WITH, THE PROSECUTOR

6

The local prosecutor will notify the victim either verbally or in writing of the status of the case. If the juvenile court disposes of a case prior to the prosecutor's involvement, the court will provide victim notification.

Additionally, the prosecutor or the court must confer with the crime victim, to the extent practical:

- ◆ Before pretrial diversion is granted to a suspect.
- ◆ Before amending or dismissing a charge.
- ◆ Before agreeing to a negotiated plea.
- ◆ Before a trial of the defendant by judge or jury or juvenile court hearing for an alleged juvenile offender.

If the prosecutor or court fails to confer with the victim regarding the above legal actions, the court,

upon being notified of the failure, will note on the record the failure to confer and the reason. The failure to confer will not affect the validity of any action. [ORC § 2930.06 (A)]

In addition, after legal action against the offender has begun, the prosecutor or court will provide the crime victim, to the extent practical, with the following:

- ◆ Name of the person arrested, also called the suspect (or defendant, if an adult, or alleged juvenile offender, if a juvenile).

Prosecutor or Court Provides Information to Victim on:

- Name of Offender
- Name of Offense
- Case File Number
- Explanation of Upcoming Procedures
- Statement on Victim's Right to be Present
- Procedures if Victim is Threatened
- Name and Number of a Contact for Victim
- Victim's Right to Have Representation
- Notice on Court Proceedings
- Delays in Prosecution

- ◆ Name of the offense with which the suspect has been charged.

- ◆ Case file number.

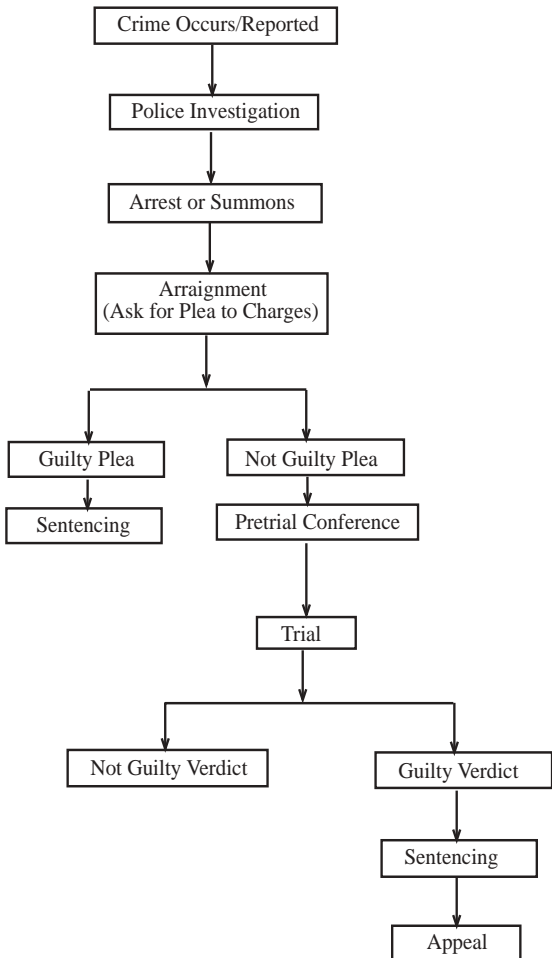
- ◆ A brief explanation of the procedures involved in a criminal prosecution or delinquency proceeding.

- ◆ A brief statement regarding the victim's right to be present during all proceedings held throughout the prosecution of the suspect.

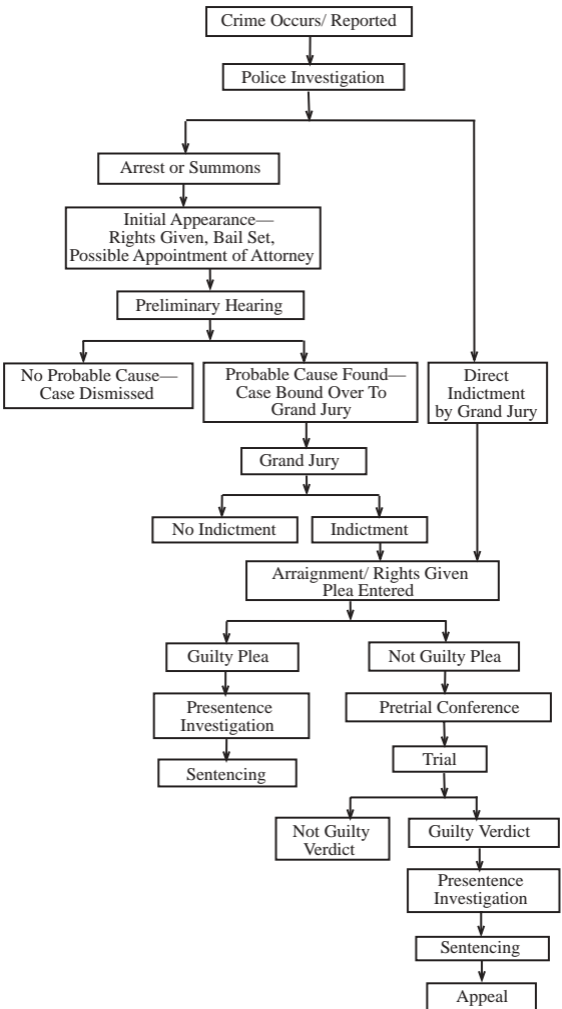
- ◆ Procedures that can be taken if the victim becomes subject to threats or intimidation.

- ◆ The name and business telephone number of the person to contact for further information regarding the criminal case.
- ◆ The right to have a victim's representative help in exercising the victim's rights and how the court decides, if necessary, who that representative will be.
- ◆ **Upon request**, the prosecutor or the court will provide the victim with a notice of any scheduled court proceedings and changes in the schedule. If this notification or any other notice available is requested, it is important that the victim keep the prosecutor or court informed of any changes in address and telephone number throughout the process. [ORC § 2930.06]
- ◆ To the extent practicable and **upon request**, the prosecutor will inform the victim of a motion, request, or agreement that will substantially delay the prosecution of the case. If a victim disagrees with the proposed delay, the prosecutor will inform the court of any objections and the court will consider these objections prior to ruling on the motion, request, or agreement. [ORC § 2930.08]

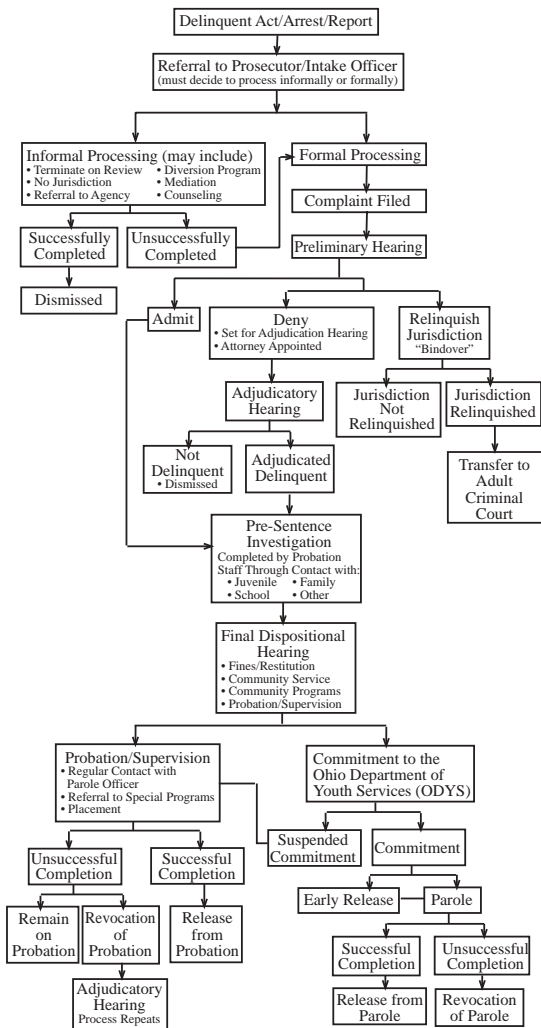
Criminal Justice Stages (Misdemeanor Crime)



Criminal Justice Stages (Felony Crime)



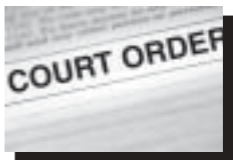
Juvenile Justice Stages (Juvenile Crime)



RIGHT TO BE FREE FROM INTIMIDATION

7

No one is permitted to threaten or intimidate a victim or witness during any stage of the criminal justice process. A person who intimidates, threatens, or otherwise frightens a victim, a victim's family member, or a witness should immediately be reported to law enforcement, as that person can be charged with a criminal offense and prosecuted. The court can also order the person to stay away from the crime victim. The prosecutor may ask the court to refrain from identifying a victim's address, place of employment, or similar identifying facts in the case file and during the criminal prosecution, unless it is used to identify the location of the crime. The court can order the transcript of the trial sealed to further protect the victim. [ORC § 2921.04; 2945.04; 2930.07]



A victim may ask the prosecutor to file a motion requesting a court order to prohibit a person from intimidating the victim or a witness, or to prohibit a person from committing an offense against the victim, or the victim's ward, or children. [ORC § 2945.04]

RIGHT TO MEANINGFUL PARTICIPATION DURING THE TRIAL

8

A victim has the right to attend the trial and any related hearings or proceedings, excluding grand jury proceedings, unless the court finds that the victim's exclusion is necessary to protect the



suspect's right to a fair trial. If the victim requests, a support person may accompany the victim. In an effort to prevent unwanted contact, the court, whenever possible, will provide a waiting area

for the victim, the victim's representative, victim's family, and witnesses for the prosecution, that is separate from the area used by individuals attending on the suspect's behalf. [ORC § 2930.09 and 2930.10]

Upon request, the prosecutor or the court will notify the victim of the outcome of the criminal or juvenile proceedings. If the charges against the suspect are proven, the prosecutor will provide the following information:

- ✓ The offenses of which the defendant was found guilty or that were proven against a juvenile offender.
- ✓ The address and business telephone number of the probation office or other person preparing a pre-sentence or disposition investigation and victim impact statement.
- ✓ Notice that a victim may make a statement about the impact of the offense to the person who completes a pre-sentence or disposition investigation report or to a person who

prepares the victim impact statement, and that this statement may be made available to the defendant.

- ✓ Explanation of a victim's right to make a statement about the impact of the offense at sentencing or disposition.
- ✓ The date, time, and location of the sentencing or dispositional hearing.
- ✓ Any sentence imposed, including judicial release or modification after an offender's successful appeal. [ORC § 2929.20(D); 2930.12]

RIGHT TO MAKE A STATEMENT AT SENTENCING ABOUT THE IMPACT OF THE CRIME

9

A victim has a right to make a statement at sentencing or disposition in any felony criminal case or juvenile justice disposition in which the offender caused, attempted to cause, threatened to cause, or created a risk of causing physical harm to the victim. In such a case, the court (prior to sentencing or disposition) shall order the preparation of a victim impact statement. The victim may provide either a written or verbal statement to the person preparing the victim impact statement and include the following information:

- ✓ Explanation of the nature and extent of any physical, psychological, or emotional harm suffered by the victim as a result of the offense.

- ✓ Explanation of the extent of any property damage or other economic loss suffered by the victim as a result of the offense, because the court may order the offender to provide restitution for the victim's losses.
- ✓ An opinion regarding the extent to which, if any, the victim needs restitution for harm caused by the offender as a result of the offense, and information about whether the victim has applied for or received any compensation for loss or damage caused by the crime.
- ✓ A recommendation for an appropriate sanction for the offender's illegal behavior.



In all criminal or juvenile cases in which a probation official or other person is preparing a presentence or pre-disposition investigation report, the victim can make a statement regarding the impact of the crime and ask that a written statement be included in the report. The victim may present the statement in writing prior to the sentencing hearing and orally at the hearing. The court will take this statement into consideration **after the case is proven against the offender**, but

before the sentence is imposed. **The written statement of the victim is confidential and is not a public record.** It will be shared with the offender and the defense attorney, but collected upon sentencing. [ORC § 2947.051; 2951.03; 2930.12; 2930.13; 2930.14]

RIGHT TO PARTICIPATE IN CRIMINAL PROCEEDINGS WITHOUT JEOPARDIZING EMPLOYMENT STATUS

10

Ohio law prohibits employers from firing an employee who misses work to attend a grand jury, delinquency, or criminal proceeding that the employee is subpoenaed to attend. **An employer is not required to pay**

an employee for time that the employee didn't work. However, if an employee is subpoenaed because of a crime that happened at work or if the suspect is the em-



ployer, the employer cannot decrease or withhold pay when the employee misses work to obey the subpoena. In addition, the employee cannot be discharged, disciplined, or retaliated against for participating, at the prosecutor's request, in the preparation of the criminal case against the offender. An employer can be found in contempt of court for taking such action. [ORC § 2151.211; 2939.121; 2945.451; 2930.18]

RIGHT TO RECEIVE NOTICE IF VIOLENT OFFENDER ESCAPES CUSTODY BEFORE TRIAL OR SENTENCING

11

If a person indicted or charged with an offense of violence escapes custody before trial or sentencing, the county prosecutor will notify the victim. [ORC § 309.18]

RIGHT TO RECEIVE INFORMATION AFTER SENTENCING

12

Upon request, the prosecutor will promptly notify the victim after the offender's sentencing on the following:

- ✓ Term of incarceration or commitment.
- ✓ The name of the agency that has custody of the offender.
- ✓ The offender's expected date of release.

Additionally, **upon request**, the prosecutor will notify the victims of any motions for early release or motions for modification of the offender's sentence. This includes notice of the offender's filing of an appeal of the sentence or disposition. If an appeal is filed, the prosecutor will provide the following information:

- ✓ A brief explanation of the appeal process and possible disposition of the case.

- ✓ Whether the offender has been released on bail or other recognizance during the appeal.
- ✓ The time, place, and location of the appeal hearing and any changes in the schedule or location.
- ✓ The result of the appeal.



If the case, upon appeal, is returned to the trial or juvenile court, a victim retains all rights previously available in the original case. [ORC § 2930.15] When the court considers these legal actions, the victim will be permitted to make an additional statement concerning the effects of the crime and can state an opinion on whether or not the suspect should be released.

RIGHT TO INFORMATION AND INPUT ABOUT ADULT DEFENDANT'S INCARCERATION AND PAROLE STATUS

13

Upon request, the Office of Victim Services within the Ohio Department of Rehabilitation and Correction (DRC) will notify a victim of the following regarding adult offenders who are incarcerated or are under community supervision through the Adult Parole Authority [ORC § 2930.16]:

- ◆ Parole board hearings.
- ◆ End of definite sentence.
- ◆ Expiration of stated term.
- ◆ The offender's release and the conditions of that release [ORC 109.42].
- ◆ Offender's death.
- ◆ Times an offender leaves an institution for court proceedings.
- ◆ Escape.
- ◆ Pending execution.

To request notification about a particular offender, contact:

**The Office of Victim Services
Ohio Department of
Rehabilitation and Correction**
1050 Freeway Dr. North, Ste. 302
Columbus, OH 43229

(888) 842-8464
(614) 728-9947
Fax (614) 728-1980
TTY (614) 728-0633

A notification form may be obtained through the local prosecutor's office, directly from the Office of Victim Services, or on their web site at **www.drc.state.oh.us**.

It is the victim's responsibility to keep the Department of Rehabilitation and Correction informed of any changes in address or telephone number in order to continue receiving notification.

Additional services available through the Office of Victim Services include:

- ◆ Presentations regarding victim services and the corrections systems.
- ◆ Support through the execution process for surviving family members.
- ◆ Victim awareness programming for offenders.
- ◆ Victim/offender dialogue.
- ◆ Victim issues while the offender is in custody or on supervised parole and support and information about the custody or parole.
- ◆ Safety planning.
- ◆ Victim conference day (regarding upcoming parole hearings).
- ◆ Petitioning for full board hearings.

RIGHTS AFTER BEING VICTIMIZED BY A JUVENILE OFFENDER

14

A victim of a juvenile offender, who has been found to be delinquent by a judge or magistrate, has the following additional rights:

- ◆ The juvenile court will notify the victim of the right to recover damages. [ORC § 2151.355(F)(G)]
- ◆ A victim can file a civil action to recover \$10,000 or less and costs from the juvenile's parents for willful and malicious assault, willful damage to property, or damage due to a theft offense. [ORC § 3109.09; 3109.10] The juvenile court will notify the victim of the right to file an application with the Ohio

Victims of Crime Compensation Program.
[ORC § 2151.355(F) (G)]

- ◆ The court will order the preparation of a victim impact statement if the crime is classified as a felony. [ORC § 2151.355 (F)(G)]
- ◆ The court may require the parent or custodian of a juvenile to post a bond to ensure the faithful discharge of the conditions of the juvenile's probation. The bond may be forfeited by the court to pay damages caused by a juvenile when a delinquent act or a juvenile's probation violation is caused by the failure of the juvenile's parent or custodian to subject the juvenile to reasonable parental authority or to faithfully discharge the conditions of probation. [ORC § 2151.411]



The court may impose the following punishments if the juvenile is found delinquent:

- ◆ The court may order the juvenile to pay for damaged property or for the value of stolen property, either in cash or through labor that equals the value of the property that was damaged or stolen.

- ◆ The court may order the juvenile to perform community service work.
- ◆ The court may place the juvenile on probation.
- ◆ The court may commit the juvenile to the temporary custody of an institution or facility, camp, or school.
- ◆ The court may order the juvenile be placed in the custody of the Ohio Department of Youth Services.
- ◆ The court may impose a fine upon the juvenile.
- ◆ The court may impose a period of electronically monitored house detention upon the juvenile.
- ◆ The court may order or impose any or all of the above-mentioned consequences. [ORC § 2151.355]

A victim of a juvenile offender who has been committed to the Ohio Department of Youth Services (DYS) has the following notification rights:

- ◆ Upon request and completion of a Victim Notification Form, the victim will be notified of the juvenile's release review and release, discharge review and discharge, revocation, escape, or death. It is the

victim's responsibility to keep DYS informed of any changes in address or telephone number in order to continue receiving notification.

To request a Victim Notification Form, contact:

**The Office of Victim Services
Ohio Department of Youth Services**

51 N. High St.
Columbus, OH 43215

Phone: (800) 872-3132

Fax: (614) 995-0289

The DYS Office of Victim Services also provides additional services, including:

- ✓ Presentations regarding victim services and juvenile corrections.
- ✓ Opportunity for an office conference with Release Authority members.
- ✓ Victim/Offender dialogue.
- ✓ Victim issues while the juvenile is in custody or on supervised parole and support and information about the custody or parole.
- ✓ Safety planning.
- ✓ Victim awareness programming for juvenile offenders.
- ✓ Victim impact panel presentations.

RIGHT TO REQUEST AN ANTI-STALKING PROTECTION ORDER

15

A person who makes someone believe that they will be physically harmed, or causes someone mental distress can be charged with menacing by stalking. However, the suspect must exhibit this behavior at least twice, closely related in time. After the charge of menacing by stalking has been filed, a victim may request the court to issue an anti-stalking protection order. Under a different law, a person who comes onto someone's property in order to make the residents believe that they will be physically harmed or to actually harm them can be charged with aggravated trespassing. [ORC § 2903.211; 2903.213; 2903.214; 2911.211]



SPECIAL RIGHTS OF VICTIMS OF SEXUAL ABUSE

16

Sexual assault and rape are violent crimes that often leave victims feeling alone and frightened. Sexually violent crimes are difficult, in part, because victims must discuss very intimate details of the crime. Knowing what may happen ahead of time can often reduce anxiety and help a victim get through the process more comfortably.

The following are the most commonly asked questions regarding sexual assault:

✓ **Who Will Pay the Medical Expenses?**

If medical personnel conduct an exam for the purpose of gathering evidence, the Attorney General's Sexual Assault Forensic Examination Program (SAFE) will pay for the exam, including any laboratory tests for evidence collection and any antibiotics administered as part of the examination. The hospital will bill the Attorney General directly for the cost of the examination and the Attorney General, regardless of whether the crime is reported to law enforcement, will pay the bill. The victim or the victim's insurance company will be responsible for any additional medical treatment the victim receives. A victim may be eligible for compensation through the Ohio Victims of Crime Compensation Program described on page 35 of this booklet for expenses not covered by insurance or other sources. [ORC § 2907.28]



✓ **Is There Mandatory Testing of the Offender for Sexually Transmitted Diseases?**

Yes. Upon the request of the prosecutor or victim, the law enforcement agency or court with authority will require the alleged offender to be examined for sexually transmitted diseases. [ORC § 2907.27]

✓ **Can a Victim Find Out If the Offender Has Any Sexually Transmitted Disease?**

Yes. The law enforcement agency will notify the victim if the alleged offender has any sexually transmitted disease. The results of an examination of the alleged offender for the virus that causes acquired immunodeficiency syndrome (AIDS) will be given to the court and the court will notify the victim that the

results are available if the victim asks to see them. If the offender is a child, a probation officer will notify the victim of any detected sexually transmitted diseases. [ORC § 2151.14; 2907.27; 2907.30]

✓ Will a Victim's Name Be Given to the News Media?

A victim has the right to ask the judge to order that no information on the police report be released. All names and details will remain confidential until after a preliminary hearing or an arraignment, or until the case is dismissed. The agencies involved, including the media, have adopted policies that may prevent the release of a victim's identity. [ORC § 2907.11]

✓ How Much of a Victim's Personal History Will Be Made Public During the Trial of the Offender?

Only the judge can determine whether or not a victim will have to answer personal sexual history questions. The judge will make that decision before such questions are asked in open court. [ORC § 2907.02 (D)(E)(F)]

✓ Can A Victim Be Notified of the Location, Including the Street Address and City, of the Offender That Committed the Crime?

A victim of the following offenses may have a specific right to the notification of a released offender's residential location, and in sexually oriented offenses may have a right to notification of the location of places they work or go to school as well:

- ◆ Aggravated Murder.
- ◆ Murder.

- ◆ Felonious Assault.
- ◆ Involuntary Manslaughter.
- ◆ Kidnapping, Abduction.
- ◆ Unlawful Restraint.
- ◆ Criminal Child Enticement.
- ◆ Rape.
- ◆ Sexual Battery.
- ◆ Unlawful Sexual Conduct with a Minor.
- ◆ Gross Sexual Imposition.
- ◆ Importuning.
- ◆ Felonious Sexual Penetration.
- ◆ Compelling Prostitution.
- ◆ Pandering Obscenity Involving a Minor.
- ◆ Pandering Sexually Oriented Matter Involving a Minor.
- ◆ Illegal Use of a Minor in Nudity-Oriented Material or Performance.
- ◆ Endangering Children.
- ◆ Voyeurism of a Minor.

Under Ohio law, if an adult offender (or juvenile offender classified as a juvenile offender registrant) is found to be guilty of a **sexually oriented offense** or **child-victim oriented offense** that is not a registration-exempt offense, the offender must register with the sheriff of all the counties in which the offender will reside, be employed, or attend any level of schooling. The offender must keep the name and address of each location updated for as long as required by law. This information is provided by the sheriff directly to certain persons in the communities where the offender is located and is also available to the general public through each sheriff's office and/or web site (statewide web site through the Attorney General will be available by January 2004.)

Where the offender is determined to be a sexual predator or child-victim predator, or a habitual sex offender or habitual child-victim offender, then **upon the request of the victim**, the sheriff(s) of the county(s) where the offender resides, works, or goes to school shall notify the victim in writing of these locations within five days and of any changes as they are registered. [ORC 2950.10]

Exceptions to registration, provisions for terminating an offender's duty to register, and specific definitions of the various terms used may affect a given situation regarding victim notification.

SPECIAL RIGHTS OF VICTIMS OF DOMESTIC VIOLENCE

17

When a person is hurt by a loved one, it can be embarrassing, confusing, and sometimes life-threatening. No one has the right to hurt other people, their children, or another family member. Everyone has a right to be safe from harm. Getting help is the first step toward a safe future. This section reviews information that may be helpful to a victim of domestic violence.

✓ Is Domestic Violence Considered a Crime?

Yes. In Ohio, it is a crime to harm or threaten to harm a spouse or a person living as a spouse, former spouse, child or

sibling, parent or a person with whom you have a child. A victim of such threats or abuse (or, in the case of a murder, a member of the victim's family) or a local law enforcement officer or prosecutor may file a domestic violence charge under these circumstances. After a domestic violence charge is filed, the victim or the officer may also ask the court to issue a Temporary Protection Order (TPO). A judge in a criminal domestic violence case can then issue a Temporary Protection Order. That TPO would order the defendant to stay away from the victim while the charges are pending. If a victim has to go to court for a hearing in a criminal case, the victim has the right to be accompanied by a victim advocate. Check with the local prosecutor's office or domestic violence shelter to find out how to contact a local advocate. [ORC § 2919.25; 2919.26; 3113.31]

✓ What Protection is Available to a Crime Victim and the Victim's Family?

The local shelter, domestic violence advocacy program, victim/witness program, or a private attorney should be able to explain all available courses of action to protect domestic violence victims, their family, and their possessions. Protection orders are helpful sometimes, but will not guarantee safety. The local domestic violence shelter should have information on developing safety plans to assist in an emergency.

✓ Are All Protection Orders the Same?

No. There are several different kinds of protection orders. Criminal courts can issue a

Temporary Protection Order (TPO) or a Criminal Stalking Protection Order depending upon the type of criminal charge and the victim's relationship to the defendant. Civil (domestic relations) courts can issue a Civil Protection Order (CPO) or a Civil Stalking Protection Order (CSPO), even if no criminal charges have been filed.

Domestic relations court has the responsibility of terminating marriages, determining custody of children, and providing for a fair division of marital property. The court also has the responsibility of providing protection to victims of domestic violence. A petition for a CPO can be filed with a domestic relations court. Depending on the local court, a victim may or may not want an attorney to assist in obtaining a CPO, which can last for up to five years. A person also does not need to get a divorce in order to ask for a CPO. Check with a local attorney, the domestic relations court, shelter, or victim advocacy program for more information on how to obtain a CPO. [ORC § 3113.31]

✓ Who Can Help a Victim With Domestic Violence Problems?

A victim of domestic violence can contact a domestic violence shelter, the local police department, a victim/witness program, local advocacy program, local children's services agency, or prosecutor's office for information and advice. The Ohio Domestic Violence Network has a toll-free,



24-hour, information line to help a victim find a local shelter or other local services. Many domestic violence shelters offer counseling or support groups. In addition, most counties in Ohio have victim advocates that will assist domestic violence victims during the arrest of the offender and in subsequent court proceedings.

**OHIO DOMESTIC
VIOLENCE NETWORK
1-800-934-9840**

✓ **How Can the Children of a Domestic Violence Victim Go To School If the Victim Is In a Shelter?**

If a domestic violence victim and the victim's children are forced to leave the home and go to a domestic violence shelter, Ohio law provides that the children may attend school free of tuition in the school district where the shelter is located. [ORC § 3313.64]



SPECIAL RIGHTS OF VICTIMS OF CHILD ABUSE

18

Children have the right to grow up free of abuse. Child abuse is a crime; yet thousands of children are physically or sexually abused in Ohio each year. Many children are reported missing due

to parental kidnapping, stranger abduction, or running away. The following are answers to some of the more common questions:

✓ What Should a Person Do If Child Abuse is Suspected?

Every Ohio county has a 24-hour hotline for reporting suspected child abuse. The hotline will be answered by the children services agency or by a county department of human services, depending on the county. Get the local number from the telephone directory or by calling directory assistance. If anyone believes a child is in immediate danger, call the local law enforcement agency. [ORC § 2151.421 (B)]

✓ Does a Person Have to Give a Name When Making a Child Abuse Report?

In Ohio, anyone can report child abuse without giving his or her name. A person who makes a child abuse report should provide the child's name, address, age, parent's name, and the reason abuse is suspected. By providing this information, the agency can locate the child more quickly. An investigation is more difficult to conduct when vital information is missing. [ORC § 2151.421(H)(1); 2151.421(C)]

✓ If a Child Is a Victim of Abuse, Who Will Interview the Child?

Staff of the children services agency, law enforcement, and the prosecutor may interview the child. Many counties in Ohio combine the

interview process so the child will be interviewed only once. [ORC § 2151.421(J)]

✓ Will the Family of a Sexually Abused Child Be Updated on the Location of a Sexual Offender?

The child and family of a sexually abused child can usually be notified of the offender's release from incarceration, and the current residence of the offender. To determine who is eligible for this notification, please refer to page 28 of this booklet. [ORC § 2950.10(A)]

✓ If a Child Is Missing, What Should Be Done First?

Immediately file a police report, whether the child is believed to have run away, to have been abducted, to have been taken by someone who knows the child, or has become lost. Be prepared to give the law enforcement agency any information that may help them locate the child, including the child's photo. Rapid response programs such as the AMBER Alert and A Child is Missing are additional tools that are available to law enforcement in appropriate situations. The Ohio Missing Children Clearinghouse, administered by the Ohio Attorney General's Office, may also be of assistance after contacting local law enforcement.

**OHIO MISSING CHILDREN
CLEARINGHOUSE
1-800-325-5604**

RIGHTS OF VICTIMS TO OFFENDER'S MOVIE OR BOOK PROFITS **19**

Under current Ohio law, the Ohio Court of Claims administers special accounts that hold profits from the sale of an offender's publication rights. These accounts prevent criminals from making money from their crimes by selling their stories to book publishers or filmmakers. In addition, the law prevents agents or family members of the offender from benefiting from the crime through this type of transaction. Victims of violent crimes, or their family members who meet specific conditions, should be aware that separate accounts held in the name of an offender may exist and that these funds may be available to them. [ORC § 2929.25; 2969]

RIGHT TO COMPENSATION FOR ECONOMIC LOSSES RESULTING FROM CRIME **20**

In 1976, the Ohio Legislature enacted the Crime Victims Compensation Act. This law helps innocent victims of violent crime recover their economic losses suffered as a result of the crime. Victims of violent crime must apply for compensation and must meet certain eligibility requirements before an award can be made. This section answers some of the most commonly asked questions about crime victims compensation.

✓ Can a Victim Get Help Paying Bills Related to the Victimization?

The Ohio Crime Victims Compensation Program may help pay specific expenses that are

not covered by insurance or other benefits if a victim is in one of the following categories:

- ◆ A victim of violent crime (including OMVI).
- ◆ A dependent of a deceased victim.
- ◆ A parent or guardian of a crime victim who is responsible for the victim's expenses.
- ◆ Someone who has taken legal responsibility to pay the expenses incurred due to a crime. [ORC § 2743.51]
- ◆ An immediate family member of a victim of homicide, sexual assault, domestic violence, or permanent life altering condition resulting from crime.

✓ **What Type of Expenses Will the Compensation Fund Cover?**

An award may be made for:

- ◆ Medically necessary expenses for treatment and care of the victim that are not covered by insurance.
- ◆ Funeral expenses.
- ◆ Loss of income.
- ◆ Counseling costs.
- ◆ Civil Protection Order (CPO) expenses.
- ◆ Other costs as specified by law.

(Awards are not usually made for property loss or for pain and suffering.) [ORC § 2743.51]

✓ If a Victim Is Awarded Money in a Civil Lawsuit, How Will That Affect the Claim?

If the money awarded is for expenses already paid by the compensation program, the victim will have to pay the program back. If a victim has not yet received any money from the compensation program, any money actually received from a civil settlement or verdict will be considered in determining what the true out-of-pocket costs are. [ORC § 2743.72]

✓ When Must an Application for Compensation Be Filed?

An application must be filed within two years of the date that the crime occurred. A juvenile victim must file an application before reaching the age of 20. [ORC § 2743.56 (C)]

✓ Can a Victim File for Compensation if the Crime Occurred Outside Ohio?

It is preferred that a victim file first in the state where the crime occurred. However, the victim may also qualify for compensation under the Ohio Crime Victims Compensation Program. [ORC § 2743.51 (A)(2)]

✓ Is a Victim Still Eligible, Even if the Victim Does Not Reside in Ohio?

Yes, if the crime occurred in Ohio, and the victim is a resident of the United States, or of a foreign country that will compensate crime victims who are residents of Ohio. [ORC 2743.51(A)(1)]

✓ **If Police Were Not Notified That the Crime Occurred, Is the Victim Still Eligible for Compensation?**

No. Police must be notified of a crime in order for a victim to be eligible for compensation. The crime should be reported to a law enforcement agency within 72 hours after it occurs. If not reported within 72 hours, the victim must show a good reason for the delay. The victim must cooperate with the law enforcement officer or agency assigned to investigate the crime to be eligible for compensation. [ORC § 2743.60 (A)]



✓ **Can a Victim's Criminal Record Affect Eligibility to Receive Compensation?**

Yes. Anyone convicted of domestic violence, child endangering, or any felony; or who has engaged in violent felonious criminal activity, or felony drug trafficking, within 10 years of the crime for which they seek compensation or during the application process, is ineligible for compensation. This prohibition generally applies to the surviving dependents of homicide victims as well; however, there are certain exceptions. If a homicide victim had a domestic violence or child endangering conviction, the survivors may still receive a crime victim award. Additionally, for crimes occurring on or after July 1, 2003, minor

dependents of a homicide victim may be eligible for reimbursement of the lost economic support from the decedent and/or for mental health counseling expenses, regardless of the decedent's criminal history, provided that the decedent was not engaged in contributory misconduct at the time of the crime. [ORC § 2743.60 (E); 2743.60 (F)(1)(2)]

✓ **How Can a Victim Apply for Compensation?**

Call the Attorney General's Crime Victims Services Section hotline at (800) 582-2877. Many county prosecutors and victim assistance programs also have applications available.



**Ohio Attorney General
Crime Victims Services Section
Hotlines and Web Site**

(800) 582-2877, or

(877) 584-2846

(877-5VICTIM)

www.ag.state.oh.us

✓ **Does a Victim Need an Attorney to Fill Out the Claim?**

An attorney can help fill out the claim, but it is not required. An attorney cannot charge for helping to file the application or for legal representation during the application process. The Compensation Fund will pay attorney fees related to the application. [ORC § 2743.65]

✓ **What Happens If a Victim Disagrees With the Finding of the Attorney General?**

A victim has the right to request that the Attorney General's Office reconsider its decision. The Attorney General will review any new information provided, and issue a final decision. A victim has the right to appeal the final decision to the Court of Claims of Ohio, if the victim still disagrees. [ORC § 2743.59(F)]

✓ **Does the Death of a Victim Due to the Crime Lengthen the Application Process?**

Yes. If a victim dies because of the crime, a final determination will not be made until two years after the victim's death. This is to allow all individuals who may have expenses due to the crime the opportunity to file an application. However, an interim decision might be issued before the two years are up to cover burial expenses and the immediate needs of the dependents.

OTHER ASSISTANCE TO VICTIMS

21

In Ohio, numerous statewide organizations and local agencies exist to assist a victim in dealing with the emotional, financial, and legal consequences of their victimization. Most counties have a prosecutor-based victim/witness program, and many have rape crisis centers, domestic violence shelters, child abuse treatment centers, homicide survivor support groups, and programs that help victims of drunk drivers.

To find out if a victim assistance program operates in the area, a victim may want to contact the city or county prosecutor's office, or:

Ohio Attorney General
Crime Victims Services Section
150 E. Gay St., 25th Fl.
Columbus, OH 43215
(800) 582-2877 or
(877) 584-2846 (877-5VICTIM)
www.ag.state.oh.us

DEFINITION OF TERMS

You may not be familiar with some of the terms used in the criminal justice system or in this booklet. The following definitions will hopefully assist you:

Acquit - to find a defendant not guilty in a criminal trial.

Affirm - the assertion of an appellate court that the judgement of the court below is correct and should stand.

Agent - a person authorized to act for another.

Alleged Juvenile Offender - a juvenile named in a police report or complaint who is suspected of committing a delinquent act.

Appeal - the process by which the convicted person asks for a review of a conviction by a higher court.

Arraignment - the initial court appearance of the accused, to inform the accused of the charges and to take a plea of guilty, not guilty, or no contest to the charge.

Bail - an amount of money determined by the judge and posted with the court clerk as security to ensure the defendant's appearance in court at a specific time.

Charge - formal accusation of having committed a criminal offense.

Civil Action - a lawsuit to enforce private rights, to obtain compensation for a violation of those rights, or to recover monetary damages. A civil action is brought directly by the person who is complaining, usually with the help of a private attorney. Civil actions are all types of actions that are not criminal proceedings.

Commutation - the substitution by the governor of a lesser punishment than the original sentence imposed by the court.

Complaint - 1. (criminal) Formal written charge alleging that a person has committed a criminal offense. 2. (civil) Initial document entered by the plaintiff that states the claims against the defendant.

Contempt of Court - any act that embarrasses, hinders, or obstructs the court in administering justice, or that lessens its authority or its dignity.

Costs - an allowance for expenses in prosecuting or defending a case in court, not including attorney fees.

Court - Includes a court of common pleas, juvenile court, municipal court, or county court.

Criminal Proceeding - a criminal action brought by a governmental body, such as a city or state. In a criminal proceeding, the prosecutor represents the governmental body that is bringing the action against the defendant.

Custodial Agency - the agency that has custody of an offender who is incarcerated or under detention

after adjudicated delinquent, or after a finding of incompetence to stand trial or not guilty by reason of insanity.

Defendant - the person who is being prosecuted.

Delinquent Child - a minor who has violated criminal laws or who engages in disobedient, indecent, or immoral conduct and is in need of treatment, rehabilitation, or supervision.

Delinquency Proceeding - any proceedings in a juvenile court that relates to a case against an alleged juvenile offender.

Delinquent Act - an act committed by a juvenile that would be considered a crime if committed by an adult.

Evidence - any form of proof legally presented at a trial usually through witnesses, records, or documents.

Felony - a crime of a more serious nature than a misdemeanor.

Grand Jury - a group of persons whose duty is to receive complaints and accusations in criminal cases, hear the prosecutor's evidence, and decide whether that evidence is sufficient to issue an indictment.

Guardian - any person, association, or corporation appointed by probate court to have the care and management of the person and/or estate of an incompetent person or minor.

Habitual Sexual Offender - any person who is convicted two or more times, in separate criminal actions, of any of a list of specified sex offenses.

Hearing - an in-court proceeding before a judge, generally open to the public.

Hung Jury - a jury whose members cannot agree on a verdict.

Indictment - a written accusation issued by the grand jury that a particular person has committed a certain crime.

Judgment - the official decision of the court; the final decision of the court resolving legal questions, which can involve a finding of guilt or acquittal of the accused and the severity of the sentence.

Judicial Release - process by which an eligible offender meeting certain requirements may be released from incarceration by the sentencing judge.

Jurisdiction - authority of a court to exercise judicial power.

Mental Distress - any mental illness or condition that involves some temporary substantial incapacity or mental illness or condition that would normally require psychiatric treatment. Mental distress is an element of the menacing by stalking crime.

Misdemeanor - an offense less serious than a felony with a maximum punishment of six months in jail and a \$1,000 fine.

Mistrial - erroneous or invalid trial. Usually declared because of prejudicial error in the proceedings or when there was a hung jury. The defendant can face trial again after a mistrial.

Motion - an oral or written request made to a court or judge for the purpose of obtaining a ruling or order directing some act to be done.

Notices - information, advice, or written warning intended to apprise persons of some proceeding in which his/her interests are involved, or to inform them of some fact that they have a right to know. Victims of crime in Ohio are entitled to certain notices without request. Other notices are “triggered” by the request of the victim.

Oath - written or oral pledge by a person to keep a promise or speak the truth.

Offender - a person accused of committing a criminal or delinquent act. The offender becomes known as the defendant after official criminal charges are filed with a court. The offender becomes known as an alleged juvenile offender after delinquency charges are filed in juvenile court.

Offenses - criminal or delinquent acts that include felonies and misdemeanors, including violations of state law or city and village ordinances.

Pardon - an act of the governor releasing a prisoner from serving the remainder of a sentence.

Parole - a supervised release from jail or prison, after the offender actually serves part of the sentence. May also be referred to as post-conviction control.

Plea - a defendant's official statement of "guilty," "not guilty," or "no contest" to the charges. If the defendant enters a "guilty" or "no contest" plea, there will be no need for a trial.

Preliminary Hearing - a hearing sometimes held in felony cases after the arrest of the offender and before an indictment. At the hearing, the prosecutor must produce evidence that a crime probably has been committed, and that the offender probably committed it.

Presentence Investigation - investigation of the relevant background of a convicted offender, usually conducted by a probation officer, and given to the judge for use during sentencing. An impact statement by the victim is usually incorporated into this report.

Pretrial - a meeting, before trial, between the prosecutor and the defense attorney to discuss the merits of the case, exchange information about witnesses, and attempt to negotiate an appropriate resolution of the case. Many cases are finalized at pre-trial.

Pretrial Diversion - allows the offender of certain offenses, prior to trial, to be referred to community agencies to complete certain things such as drug counseling and community service. If the offender responds successfully, the charges will usually be dismissed by the court.

Probable Cause - reasonable cause; having more evidence for than against; a reasonable belief that a crime has or is being committed; the basis for all lawful searches, seizures, and arrests.

Probation - a period during which the defendant's jail time or fine is suspended. During this time, the defendant is under court supervision and must obey certain rules. If the defendant breaks any of these rules while on probation, the court can then order him or her to serve the jail time. May also be referred to as post-conviction control.

Prosecution - 1. act of pursuing a lawsuit or criminal trial; 2. the government attorney who initiates and attempts to prove a criminal case in court.

Prosecutor - a public officer including the prosecuting attorney or assistant prosecuting attorney, village solicitor, or city law director who is designated to appear for the prosecution of a given case.

Reasonable Doubt - an accused person is entitled to acquittal if, in the minds of the jury, guilt has not been proven beyond a "reasonable doubt;" that state of mind of the jury in which they cannot say they feel an abiding conviction as to the truth of the charge.

Restitution - an order by a court that requires the offender to pay for monetary loss, damage, or injury.

Search Warrant - a written order, issued by a judge or magistrate, directing an officer to search a specified house or other place for evidence.

Sentencing - the judgment of a court concerning the offender's punishment, ranging from death, imprisonment, or fine to probation, restitution, and community service.

Sexual Predator - a person who has been convicted of or pleaded guilty to committing a sexually-oriented offense and is likely to engage in one or more sexually-oriented offenses in the future.

Speedy Trial - right of a defendant to have a trial within a period of time defined by law.

Subpoena - a written command to appear at a certain time to give testimony or produce documentary evidence. Failure to comply with a subpoena can lead to an arrest or contempt of court proceeding.

Summons - document or writ directing the sheriff or other officer to give notice that an action has been commenced against a person in court and that an appearance is required by a certain day, to answer the complaint.

Testimony - any statement made by a witness under oath in a legal proceeding.

Verdict - formal decision made by a judge or jury.

Victim - a person who has suffered an injury resulting from the commission of a crime or delinquent act.

Victim Advocate - a person who provides support and assistance for a victim of crime during court proceedings.

Victim Impact Statement - a written or oral statement regarding the impact of the crime on the victim — including the financial, physical, and emotional consequences.

Victim Representative - a member of the victim's family or another person who exercises the rights of a victim.

LIST OF STATE AND FEDERAL VICTIM SERVICES

Action Ohio Coalition for Battered Women

P. O. Box 15673

Columbus, OH 43215

(614) 221-1255

Family Violence Prevention Center

Office of Criminal Justice Services

400 E. Town St., Ste. 300

Columbus, OH 43215

(614) 466-7782

FBI Victim Specialist

500 S. Front St., Ste. 1050

Columbus, OH 43215

(614) 744-2123

Mothers Against Drunk Driving (MADD)

5900 Roche Dr., Ste. 250

Columbus, OH 43229

(800) 552-8641

(614) 885-6233

Office of Criminal Justice Services

400 E. Town St., Ste. 300

Columbus, OH 43215

(614) 466-7782

Ohio Attorney General's Office

Consumer Protection Section

30 E. Broad St., 14th Fl.

Columbus, OH 43215-3400

(800) 282-0515

(614) 466-1305

www.ag.state.oh.us

LIST OF STATE AND FEDERAL VICTIM SERVICES (continued)

Ohio Attorney General's Office Crime Victims Services Section

Ohio Victims of Crime Compensation Program

150 E. Gay St., 25th Fl.

Columbus, OH 43215

(800) 582-2877

(614) 466-5610

www.ag.state.oh.us

Ohio Coalition on Sexual Assault

4041 N. High St., Rm. 410

Columbus, OH 43214

(888) 330-2672

(614) 268-3322

Ohio Court Appointed Special Guardian/ Guardian Ad Litem (CASA/GAL) Association

197 E. Broad St., Ste. 307

Columbus, OH 43215

(800) 891-6446

(614) 224-2272

Ohio Crisis Response Team Greene County Prosecutor's Office

45 N. Detroit St.

Xenia, OH 45285

(937) 376-5087

Ohio Department of Health Rape Prevention Project

246 N. High St.

Columbus, OH 43266

(614) 466-5332

LIST OF STATE AND FEDERAL VICTIM SERVICES (continued)

Ohio Department of Mental Retardation and Developmental Disability (MRDD)

Major Unusual Incident (MUI) Investigation

1601 W. Broad St.

Columbus, OH 43222-1055

(614) 995-3817

(614) 995-3810

Ohio Department of Rehabilitation and Corrections (DRC)

Office of Victim Services

1050 Freeway Drive North, Ste. 302

Columbus, OH 43229

(888) 842-8464

(614) 728-9947

Ohio Department of Youth Services (DYS)

Office of Victim Services

51 N. High St., Ste. 851

Columbus, OH 43215

(800) 872-3132

Ohio Domestic Violence Network (ODVN)

4041 N. High St., Ste. 400

Columbus, OH 43214

(800) 934-9840

(614) 784-0023

Ohio Missing Children Clearinghouse

Attorney General's Office

150 E. Gay St., 25th Fl.

Columbus, OH 43215

(800) 325-5604

www.ag.state.oh.us

LIST OF STATE AND FEDERAL VICTIM SERVICES (continued)

Ohio Prosecuting Attorney's Association

196 E. State St., Ste. 200
Columbus, OH 43215
(614) 221-1266

Ohio Victim/Witness Association Greene County Prosecutor's Office

45 N. Detroit St.
Xenia, OH 45285
(937) 376-5087

Parents of Murdered Children, National Chapter

100 E. Eighth St.
Cincinnati, OH 45202
(888) 818-7662

Southwest Ohio Critical Incident Stress Management Team

P.O. Box 62445
Cincinnati, OH 45262-0445
(800) 212-1322 (On-call pager)
(513) 563-2172

United States Attorney, Northern Region

1800 Bank One Center
600 Superior Ave., East
Cleveland, OH 44114
(216) 622-3600

United States Attorney, Southern Region

280 N. High St.
Two Nationwide Plaza, 4th Fl.
Columbus, OH 43215
(614) 469-5715

VICTIMS HAVE THE RIGHT TO KNOW

Call VINE: VICTIM INFORMATION AND NOTIFICATION EVERYDAY

1-800-770-0192

To find out about an offender in Ohio, call the VINE toll-free hotline 24-hours-a-day to hear related custody and court information. (Tambien disponible en espanol). Any person may also register, over the phone, to receive automatic telephone notification if the offender is released, transferred, or escapes, and for upcoming court events.

For offenders incarcerated in the Department of Rehabilitation and Correction (DRC) or the Department of Youth Services (DYS), VINE should be considered a supplemental notification, and not a replacement for registering with their Offices of Victim Services, which offer additional notifications regarding offenders. To register with these offices, contact DRC at (888) 842-8464 and DYS at (800) 872-3132 and review page 19, “**RIGHT TO INFORMATION AND INPUT ABOUT ADULT DEFENDANT’S INCARCERATION AND PAROLE STATUS,**” or page 21, “**RIGHTS AFTER BEING VICTIMIZED BY A JUVENILE OFFENDER**” in this booklet.

The VINE service is provided to the citizens of Ohio by Attorney General's office, Buckeye State Sheriffs' Association, Ohio Prosecuting Attorneys Association, Ohio Department of Rehabilitation and Correction, and Ohio Department of Youth Services.

NAMES, NOTES, NUMBERS

NAMES, NOTES, NUMBERS