



CRASH VICTIMS AS VICTIMS OF CRIME

MODEL POLICY

2015

I. Purpose

The purpose of this policy is to establish guidelines for providing services to crash victims involved in criminal situations.

II. Policy

A large percentage of motor vehicle related collisions involve criminal situations that create a legal definition of a "victim." This policy ensures that all crash victims and witnesses of crime are honored and protected by law enforcement agencies, prosecutors, and judges through a tiered system of implementation. The implemented services include: information about the case and relevant court proceedings; referrals to appropriate service agencies/providers; and assistance with applying for victim compensation when applicable.

III. Definitions

Crime: an act committed in this state which, if committed by a competent adult, would constitute a misdemeanor or felony.

Victim: an individual who suffers direct or threatened physical, psychological, or financial harm as the result of the commission or attempted commission of a criminal offense. Victim also includes any individual's spouse, parent, child, or lawful representative of a victim who is: deceased; a minor; incompetent; or physically or psychologically incapacitated.

Witness: any person who has been or is expected to testify for the prosecution, or who, by reason of having relevant information, is subject to call or likely to be called as a witness for the prosecution, whether or not any action or proceeding has yet been commenced.

IV. Victim and Witness Rights

- a. The following are hereby established as the model policy's rights of victims and witnesses of crimes:
 - i. To be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal and juvenile justice process, and informed of the victim's rights, provided by model policy;
 - ii. To be reasonably informed when the accused or convicted person is arrested, released from custody, or has escaped;
 - iii. To be informed of and present at any criminal proceedings which are dispositive of the charges where the defendant has the right to be present;
 - iv. To be reasonably informed of and be allowed to submit either a written or oral statement at all hearings affecting bond or bail;
 - v. To be heard at any proceeding involving a post-arrest release decision, a plea, or sentencing;
 - vi. To be reasonably protected from the accused or persons acting on his behalf throughout the criminal justice process;
 - vii. To confer with the prosecution, after the crime against the victim has been charged, before the trial or before any disposition and informed of the disposition;
 - viii. To have reasonable access after the conclusion of the criminal investigation to all documents relating to the crime against the victim before trial;
 - ix. To receive prompt and full restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury including both adult and juvenile offenders;
 - x. To be informed of any proceeding when any post-conviction action is being considered, and be present at any post-conviction hearing involving a post-conviction release decision;
 - xi. To a reasonable disposition and prompt and final conclusion of the case;
 - xii. To have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and have these rules subject to amendment or repeal by the legislature to ensure protection of these rights.

V. Victims of Crime: Requirements

- a. This is a summary of law enforcement's model policy recommended obligations to the victims of motor vehicle collisions:
 - i. Must provide a free copy of the initial incident report
 - ii. Must provide a document which describes a victim's rights and responsibilities as well as local victim assistance and social service providers and the victims' compensation program.
 - iii. Must assist eligible victims in applying for compensation benefits as requested.
 - iv. Must intervene with creditors or employers of a victim.

- v. Must inform a victim of the status and progress of the case
- vi. Must notify of arrest, bond hearings, pretrial releases, and of the right to attend summary court bond hearings and make recommendations to the judge; this includes any type of juvenile hearing or release.
- vii. Forward victim contact information to the summary court or the prosecuting agency before a bond or release hearing.
- viii. Must provide any measures necessary to protect victims, including to and from court.
- ix. Must make reasonable efforts to provide separate waiting areas for victims from defendants for proceedings in circuit and family courts.
- x. Return personal property as quickly as possible.

VI. Role of Victim Advocate (if applicable) or Law Enforcement Officer

- a. The role of the Victim Advocate or Law Enforcement Officer (LEO) is to primarily provide services to victims and surviving family members of motor vehicle crashes resulting in a crime. The agency recognizes the special needs and concerns of victims and survivors of motor vehicle collisions, and will treat victims, witnesses and /or survivors with compassion, fairness, dignity, and respect. The Victim Advocate/LEO will be responsible for the following duties:
 - i. Responding to scenes, hospitals, etc. as needed to provide crisis intervention to victims or survivors.
 - ii. Providing follow-up services to assist the well-being of victims or survivors.
 - iii. Providing referral information to victims or survivors of available resources.
 - iv. Providing information to victims and/or families regarding the status of the investigation and information regarding to “at-fault” driver.
 - v. Assisting victims and/or families in filing for Crime Victim Compensation.
 - vi. Notifying victims of their rights as stated under model policy.
 - vii. Accompanying victims and/or family members to court and other legal proceedings, as needed.
 - viii. Other needs that arise that can be handled by the Victim Advocate/LEO on a case-by-case basis.

VII. Procedure

- a. The Investigating LEO must complete and provide the checklist as well as the Victim’s Information Sheet to the victim or victim’s family as soon as practical. This will include information on the initial court appearance for the defendant.
- b. The Investigating LEO will also provide the jail and courts with their copy of the checklist where applicable.
- c. The LEO informs the first-line supervisor that a victim of crime case has been opened. The checklist is then forwarded through the proper chain of command.

- d. The Law Enforcement Executive Officer (or designee) will review the checklist and the facts surrounding the incident and choose the next course of action based on the following:
 - i. If the incident involves great bodily injury or meets certain criteria, it will automatically be sent to the LEO/Victim Advocate. Some of the criteria may include:
 - 1. Driving Under the Influence
 - a. Operating a vehicle as defined by the state while under the influence of alcohol or drugs
 - 2. Vehicular Homicide
 - a. Operating a vehicle as defined by the state in such a manner that principally causes the death of a person
 - 3. Assault – Using a Vehicle
 - a. Operating a vehicle as defined by the state in such a manner that principally causes injury of a person.
 - ii. The Victim Advocate/LEO would then follow his/her outlined protocol to assist the victim throughout the legal process (see below).
 - iii. For cases not meeting the above criteria, the Victim Advocate/LEO would mail a form letter to the victim and would act as a liaison between the law enforcement agency and the victim on minor issues most likely to involve paperwork.
- e. If a case is referred to the Victim Advocate/LEO, it will either be as an immediate notification (in very rare instances such as multiple deaths, those involving children, etc.) or deferred notification (next business day).
 - i. Immediate Notification
 - 1. The LEO responding to the scene of a collision will determine the victim/witness/survivor's needs for services, and whether or not his/her needs may require the immediate response of the Victim Advocate/LEO.
 - 2. The commander will be contacted if the investigating LEO decides there is a need for the on-scene presence of the Victim Advocate/LEO.
 - 3. The immediate information given to the Victim Advocate/LEO will come from the commander.
 - 4. Information needed:
 - a. Time of collision
 - b. Location
 - c. Type of injury
 - d. Victim name/type of kin (if applicable)
 - e. County of collision
 - f. Name of trooper currently working the case
 - g. Location of callout needed (accident scene, hospital, etc.)
 - ii. If the Victim Advocate/LEO did not respond to the scene, he or she will be responsible for follow-up the next business day. The follow-up may include contact with the victim and/or victim's family verbally or in person.

- iii. If an immediate callout is not warranted, the LEO or supervisor who responds to the scene must contact the Victim Advocate/LEO via email within 24 hours. Basic information listed above (part 4) will be conveyed. LEO who responded to the scene will forward a copy of the Victim Advocate checklist within 72 hours of the collision (via email PDF file, fax or mail). The notification of the collision and the proper paperwork may be submitted at the same time.
- iv. In the days/weeks to come, the Victim Advocate/LEO will follow the procedures outlined on this report that documents our responsibility to the victim. These needs can vary from victim to victim. The Victim Advocate/LEO will work directly with the commander or designee as the case progresses.
- v. There are four minimum contacts that the Victim Advocate/LEO will make with the victim or surviving family member:
 - 1. Initial contact – contact that is either in person, over the phone, or via form letter, as the case may warrant;
 - 2. Follow-up – usually made within 20 days after the initial contact; in cases of death, this follow-up contact will be made within 10 days;
 - 3. Six month contact – a letter will be sent that will include an evaluative survey that victims/surviving families will complete and send back to express their experience with the Victim Services program;
 - 4. One year contact – a letter will be sent one year after the case was referred, to remind them of our services if any further referrals are needed.

VIII. Victim Services Training

- a. Transition to this model would require immediate orientation for law enforcement professionals. It is absolutely critical that law enforcement professionals have a sound understanding of victims' rights and our responsibilities according to the model policy to deliver these services in a fair and expeditious manner.
- b. A training program would need to be formally developed that would focus on a review of state law regarding victims' rights, Victim's Bill of Rights, Victim Services materials and guidelines.