



NATIONAL PARK SERVICE



RM-9

VERSION 2015

Victim Assistance

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1. DEFINITIONS

The following definitions apply to this and other chapters of this manual.

1.1 Earliest Opportunity for Provision of Service

One that will not interfere with an investigation or hamper the law enforcement officer in the performance of other responsibilities.

1.2 Financial or Pecuniary Harm

The degree of assistance must be determined on a case-by-case basis and shall not be defined or limited by a dollar amount. For example, since victims' means vary, that which constitutes a minimal financial loss for one might represent a devastating loss for another.

1.3 Serious Crime

Defined as a criminal offense that involves personal violence, attempted or threatened personal violence, or significant property loss.

1.4 Victim of Crime

As used in RM-9, the term “crime victim” means a person directly and proximately harmed as a result of the commission of a federal offense or an offense in the District of Columbia. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representative of the crime victim’s estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim’s rights under this chapter, but in no event shall the defendant be named as such guardian or representative. (18 U.S.C. 3771)

1.5 Witness

A person who has information or evidence concerning a crime and provides information regarding their knowledge to a law enforcement agency. Where the witness is a minor, the term “witness” includes an appropriate family member or legal guardian. The term “witness” does not include defense witnesses or an individual involved in the crime as a perpetrator or accomplice. Witnesses are not entitled to mandatory services and do not have enforceable rights. Witnesses, however, will be protected for their safety from retaliation or harm.

2. POLICY

Commissioned personnel will comply with applicable laws concerning crime victims. They will make their best efforts to inform crime victims of their rights and to provide them with information as to resources and assistance in accordance with policy, standards, and procedures.

3. VICTIM ASSISTANCE PROGRAM

The DCOP or their designee will establish and maintain the VAP, will serve as the point of contact on VAP matters, ensure compliance with training requirements, develop bureau VAP standards and procedures, and gather and report annual victim-related statistics to the DOI VAP Coordinator.

4. TRAINING

All commissioned personnel shall receive a minimum of one hour of training at their basic training academy in carrying out the provisions of the laws protecting and enhancing the role of crime victims in the federal criminal justice process. Annually, employees will receive one hour of training on victim and witness rights and its application in law enforcement. Content may include training on the policy, standards, and procedures of the NPS VAP as well as providing a copy of the Attorney General’s Guidelines.

5. HISTORY, PURPOSE, AND INTENT

The primary purpose of the VAP is to ensure that victims are advised of their rights, assisted with provision of services, and treated with dignity and respect. Victim assistance is a cooperative effort, which will result in better investigations. In addition, these procedures will assist victims in recovering from their injuries and losses to the fullest extent possible, consistent with available resources.

Commissioned personnel will make their best efforts to inform crime victims of their rights and to provide them with information as to resources and assistance in accordance with policy and procedures here established to ensure compliance with applicable laws.

5.1 Scope

These standards and procedures apply to investigation and prosecutions that involve victims who are adversely affected by criminal conduct.

While special attention shall be paid to victims of serious, violent crime, all victims of federal crime who have suffered physical, financial, or emotional trauma shall receive the assistance and protection to which they are entitled under the law. The type of assistance provided will vary according to the individual’s needs and circumstances and availability of resources. In some cases, the nature of the event makes the extension of the full range of victim services inappropriate. Sound judgment will, therefore, be required to make appropriate decisions as to the range and length of victim services and assistance given. As a general rule, however, federal law enforcement personnel should always err on the side of providing rather than withholding assistance.

5.2 Authorities

DOI Policy (DM-446) and this policy combine the requirements of:

- Victim and Witness Protection Act of 1982.
- Victims of Crime Act of 1984.
- Victim's Rights and Restitution Act of 1990.
- Victims of Child Abuse Act of 1990 contained in the Crime Control Act of 1990.
- Violent Crime Control and Law Enforcement Act of 1994.
- Antiterrorism and Effective Death Penalty Act of 1996.
- Victim Rights Clarification Act of 1997.
- Crime Victims Rights Act of 2004.
- Attorney General Guidelines for Victim and Witness Assistance 2011.

5.3 Background

The Victim and Witness Protection Act of 1982 (VWPA) was enacted “to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process; to ensure that the Federal government does all that is possible within limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of defendants; and to provide a model for legislation for state and local governments.” (*P.L. 97-291, § 2*)

The VWPA instructed the Attorney General to develop and implement guidelines for the Department of Justice consistent with the purposes of the Act. Those guidelines are known as the Attorney General Guidelines for Victim and Witness Assistance (AG Guidelines). The VWPA also required all other federal agencies to adopt guidelines consistent with the AG Guidelines.

The 2011 revision of the AG Guidelines includes legal requirements contained in subsequent federal victims' legislation. The AG Guidelines include:

- Requirement of proper identification of victims.
- Identification and description of mandatory services.
- Identification and description of enforceable rights.
- Notification about protection, services, and major case events.
- Description of required training for law enforcement and others.

The AG Guidelines establishes procedures to be followed incorporating these objectives. DOI standards and procedures follow the model contained in the AG Guidelines.

The most recent federal legislation, the Crime Victims Rights Act (Justice for All Act) of 2004, provides the following rights for victims of crime, codified at *18 U.S.C. 3771*:

1. The right to be reasonably protected from the accused.
2. The right to have 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.
3. 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.
4. The right to be reasonably heard at any public proceeding involving release, plea, sentencing, or any parole proceeding.
5. The reasonable right to confer with the attorney for the government in the case.
6. The right to full and timely restitution as provided in law.
7. The right to proceedings free from unreasonable delay.
8. The right to be treated with fairness and with respect for the victim's dignity and privacy.

Commissioned personnel engaged in the detection, investigation, or prosecution of a crime shall make their best efforts to see that victims of crime are notified of, and accorded these rights.

5.4 Exceptions

This section does not apply to individuals who have committed or are reasonably believed to have committed a criminal offense.

Federal departments and state and local agencies, as entities, shall not be considered “victims.”

6. RESPONSIBLE OFFICIALS

The Victim’s Rights and Restitution Act of 1990 (VRRRA) requires that each office have a designated official who is responsible for identifying victims of crime and providing the services described at each stage of a criminal case. The Department of Interior policy (DM-446, Chapter 5) identifies the SLEO or the SAC as the responsible official. Responsibilities can be delegated to the commissioned personnel under the SLEO’s supervision and authority.

7. INFORMATION, NOTICE OF RIGHTS, AND REFERRAL FOR VICTIMS

At the earliest opportunity after the detection of a crime, at which it may be done without interfering with an investigation, the commissioned personnel will ensure that the victims in a case are provided with a copy of the DOI Information for Victims of Crime brochure or other printed materials. The printed materials used should include the rights of victims, explain the right to receive services, and include a place for the name and telephone number of the commissioned personnel to whom such requests should be addressed. The commissioned personnel will indicate in the case file that the information was provided and resources were offered/distributed, thus providing evidence that the commissioned personnel notified the victim or witness of their statutory rights and resources.

8. COORDINATION WHEN RESPONSIBILITY SHIFTS TO ANOTHER AGENCY

The transition of victim assistance responsibility from one agency to another must include information sharing, and in some cases it should occur before responsibility is turned over. In this way, gaps in notification and other services are eliminated and crime victims receive continuous rather than fragmented treatment.

Commissioned personnel have responsibility for assisting victims and witnesses so long as cases are under investigation. Victim-Witness Coordinators with the FBI and the US Attorney’s Offices, as well as with other investigative, prosecutorial, and victim service agencies, are responsible for working with victims and witnesses only when the FBI, the US Attorney’s Office, or other agency accepts the case for prosecution. In addition, federal law enforcement agencies continue to be responsible for the reasonable protection of victims and witnesses. Commissioned personnel should coordinate victim-witness service efforts with federal, state, and local law enforcement officials (if appropriate) and with various victim service programs, as well as with Crime Victim Compensation providers.

9. PROCEDURES

9.1 Services to Victims

At the earliest reasonable opportunity after the detection of a crime, commissioned personnel will make reasonable and diligent efforts to identify the victim of the crime and inform the victim of the right to receive services.

- Inform each victim of the name, title, business address, and telephone number of the commissioned personnel to whom such a request for services should be addressed.
- Provide the victim with a current DOI Information for Victims of Crime brochure.
- Refer the victim to emergency medical and/or social services.
- Provide information on compensation or restitution programs available (DOI Victim/Witness brochure). Refer the victim to counseling, treatment, and other support programs.
- Assist the victim in contacting the specific person or office that will provide the above services.
- Make necessary and appropriate arrangements to enable victims and witnesses to receive reasonable protection against threat, harm, and intimidation from a suspected offender and persons acting for or at the request of a suspected offender (*42 U.S.C. 10607(c)(2)*).

- Notify the victim of the release or detention status of an offender or suspected offender. Whenever feasible, assist the victim with obtaining a protection order as needed.
- Notify the victim, to the extent that it is appropriate and will not interfere with the investigation, of the status of the investigation, and the arrest or formal charging of a suspected offender.
- Notify the victim of prosecutorial declinations.
- Ensure that any property of a victim that is being held as evidence is maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes. If the property is not returned promptly, provide an explanation to the victim.
- During an investigation of a sexual assault, costs of the physical examination of the victim and of costs of materials used to obtain evidence will be paid by the NPS. If a victim is billed for such an examination or materials, the victim shall be reimbursed. Victims are entitled to payment of the cost for up to two anonymous and confidential tests for sexually transmitted diseases during the 12 months following sexual assaults that pose a risk of transmission of sexually transmitted diseases.
- Ensure that the appropriate US probation officer is fully advised of information in the commissioned personnel's possession that is pertinent to preparation of the victim impact statement required by Rule 32(c)(1) and (2) of the Federal Rules of Criminal Procedure, so that the report will fully reflect the effects of the crime upon victims, as well as the appropriateness and amount of restitution.
- Make a notation in the case file that the victim or witness was provided with resource referrals and copies of the DOI Information for Victims of Crime brochure.

9.2 Other Services

In addition to the services described above, other appropriate assistance should be extended to victims and witnesses, to the extent feasible, as follows:

- Commissioned personnel and victim assistance personnel shall resist attempts by the defense to obtain discovery of the names, addresses, and phone numbers of victims and witnesses. Inquiries are to be directed to the prosecutor's office.
- Commissioned personnel and victim assistance personnel should assist in notifying:
 - The employer of the victim or witness if cooperation in the investigation of the crime causes the victim or witness to be absent from work. In interviewing victims or witnesses at their places of employment or other public places, commissioned personnel should explain to employers and others the individual's status as a victim or witness and the necessity for conducting the interview at that time.
 - The creditors of the victim or witness, if the crime or cooperation in its investigation affects the victim's or witness's ability to make timely payments.
- Victims and witnesses should be provided information or assistance, when appropriate, with respect to transportation, parking, translator services, and related services.

Commissioned personnel who investigate violations of federal law and the US Attorney or other attorney who prosecutes cases are jointly responsible for deciding whether the provisions contained in this chapter should be applied in a particular case. All commissioned personnel shall take necessary steps to coordinate their service efforts with state and local law enforcement and with the victim assistance program officials in the appropriate US Attorney's Office.