



Utah Council on
Victims of Crime

***Victims and Witnesses
Have Rights!***

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INTRODUCTION

Crime hurts! As a victim of crime, you may experience significant injury, loss, confusion and life-disruption. Shock, disbelief, fear, vulnerability, anger, and frustration may also result. In addition to struggling with these impacts, your involvement in the criminal justice system may be needed. You may also find it necessary to become involved with a variety of other community agencies while seeking beneficial services. This change to your life can feel overwhelming!

The community has a legal and moral responsibility to respond to criminal victimization through support of victims of crime. This response is necessary to preserve order and protect the community. *Victims and witnesses of crime are essential partners in this community effort.* Without your participation and involvement as a citizen, the criminal justice systems cannot serve the community. However, the complexity and limitations of these agency processes may create additional frustration for you as a victim or a witness.

This booklet has been prepared to assist you in understanding your rights and to provide information about the roles of various public and private agencies. Your informed participation is vital to Utah's system of criminal justice. Services described in this brochure are available to victims at no charge.

UTAH COUNCIL ON VICTIMS OF CRIME

The criminal justice system has historically been insensitive to the needs and concerns of crime victims. All too frequently involvement in the criminal justice system resulted in additional suffering to victims already harmed by criminal acts. To address these problems, in 1993 the legislature established the Utah Council on Victims of Crime and tasked it with the responsibility of coordinating statewide efforts to improve victims' experiences and status in the criminal justice system. The Council is a bi-partisan body with a statutorily designated representation from across Utah. The Council provides training and assistance to victims' programs in prosecution offices, police departments and other agencies throughout Utah.

The Council continues to be a strong voice in improving victim services and rights in Utah. The Council played a significant role in enacting legislation and court rule changes focused on improving the status of victims involved in the criminal justice system. Examples of these changes include the creation of the Office of Crime Victim Reparations, the Crime Victims' Bill of Rights, and the Utah Victims' Constitutional Amendment. The Council also worked hard to develop and promulgate court rule changes to require the consideration of the threat of harm or danger to the victim at bail hearings and the enacting of "Rape Shield" protections for victims of sexual assault.

Utah law also establishes a Victims' Rights Committee in each of the eight judicial districts in Utah. The purpose of these committees is to address specific complaints and problems within their respective judicial districts and to be an educational and supportive influence in protecting victim rights. The Chair of each of these District Victims' Rights Committees, along with other select victim advocates and agency representatives, serves on the Utah Council on Victims of Crime. Through the various Victims' Rights Committees in the judicial districts, victims' concerns are monitored throughout the state. Individuals may bring violations of victims' rights to the attention of their respective District Victims' Rights Committee. A form entitled "Victim/Witness Complaints" is available for this purpose. For additional information on this complaint process see the "Complaint Procedures" section of this

brochure. Any complaint not resolved by the local District Victims' Rights Committee, is reviewed by the Council.

Members of the Utah Council on Victims of Crime and the various District Victims' Rights Committees continue to be committed to improving the experience and status of crime victims in Utah. Participation in the various projects of the Council is encouraged and individuals interested in becoming involved in the victims' movement should contact the Utah Office for Victims of Crime at 801-238-2360 or 1-800-621-7444.

VICTIM RIGHTS

Victims of crime have constitutional and statutory rights to ensure that all victims are treated with dignity, respect, courtesy, and sensitivity, and that the rights extended to victims and witnesses of crime are honored and protected by law in a manner no less vigorous than protections afforded criminal defendants. You can locate these rights in the Utah Constitution, Article 28 and in the Utah Criminal Code at 77-37, 77-38 and 77-38a. Following is a brief summary of the rights entitled to victims of crime; felony crimes and A and B misdemeanor crimes, including juvenile charges:

- a. Victims have the right "to be treated with fairness, respect, and dignity, and to be free from harassment and abuse throughout the criminal justice process."
- b. Victims have the right to be informed and assisted as to their role in the criminal justice process, including clear explanations regarding legal proceedings.
- c. Victims have the right to be present and heard at important criminal justice and juvenile justice hearings. Those hearings include preliminary hearings, arraignment, any court proceeding involving the disposition of charges or the delay of a previously scheduled trial date, a court proceeding relating release of the defendant from custody, the criminal trial, sentencing hearings and parole hearings.
- d. Victims have the right to be heard and that right may be exercised at the victim's discretion in any appropriate fashion, including an oral, written, audio taped, or videotaped statement or direct or indirect information that has been provided to be included in any presentence report.
- e. Victims have the right to receive notice of important criminal justice hearings in felony cases. The victim's address, telephone number and written impact statement are protected and only available to a limited group of victim specialists.
- f. Victims of several violent and sexual crimes may request a pretrial criminal no contact order be issued by the court.
- g. Victims have the right to a speedy disposition of the charges, free from unwarranted delay caused by the defendant and to a prompt and final conclusion of the case after the disposition or conviction and sentence.
- h. Victims have the right to have the sentencing judge receive and consider information about the impact of the crime upon the victim and any other information the victim would like to share with the sentencing judge.

- i. Victims have a right to have a representative exercise the same rights that the victim is entitled to.
- j. Victims have the right to restitution.
- k. Victims have the right to have any personal property obtained in an investigation returned to the victim when the property is no longer needed by the court or prosecution.
- l. Victims have the right to object to a petition for expungement.
- m. Victims of sexual assault have the right to have their confidential communication to a sexual assault counselor remain confidential.
- n. Additionally, should a convicted person, or representative of the convicted person, receive a profit from the sale or transfer of memorabilia, the profit shall be given to the Crime Victim Reparations Fund.
- o. Access to VINE (Victim Information & Notification Everyday www.VINELink.com) System (See VINE under other victim resources)

Additional Rights for Children

- a. Victims who are 13 years of age or younger shall be communicated to in age-appropriate language.
- b. Child victims have the right to have the process conducted in the most effective and least traumatic, intrusive, and intimidating manner.
- c. Children are not responsible for inappropriate behavior adults commit against them and have the right not to be questioned, in any manner, nor to have allegations made, implying this responsibility.
- d. Child victims have the right to have interviews related to criminal prosecution kept to a minimum.
- e. Child victims have the right to be informed of available community resources that might assist them and how to gain access to those resources.

Additional rights for victims of sexual offenses

- a. Victims of sexual offenses have the right to request voluntary testing for themselves for HIV infection and to request mandatory testing of the alleged sexual offender for HIV infection.
- b. Victims of sexual offenses have the right to be informed whether a DNA profile was obtained from the testing of the rape kit evidence or from other crime scene evidence.
- c. Victims of sexual offenses have the right to be informed whether a DNA profile developed from the rape kit evidence or other crime scene evidence has been entered into the Utah Combined DNA Index System.

- d. Victims of sexual offenses have the right to be informed whether there is a match between a DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Utah Combined DNA Index System, as long as disclosure would not impede or compromise an ongoing investigation.
- e. Victims of sexual offenses have the right to designate a person of the victim's choosing to act as a recipient of the information gathered in HIV infection testing and DNA testing.

AGENCY RESPONSIBILITIES

Agencies have certain responsibilities to see that victims' and witnesses' rights are complied with.

Law Enforcement Responsibilities

- a. Ensure a link between the victim and available services
- b. Provide information regarding the level of protection from intimidation and harm available to victims and witnesses, and the sources of that protection
- c. Provide information on how to access services and information on the criminal justice system, through the victim advocate program
- d. Provide basic resources and information about the victim's reparation, and refer to the victim advocacy program
- e. Properly secure and maintain the property of a victim held as evidence, and return that property as soon as it is no longer needed as evidence
- f. Establish policies and procedures to provide a quick turnaround on reports for victims, prosecutors, and discovery
- g. Establish policies and procedures that better enhance victim safety (safety plans) following an incident

Prosecutors' Responsibilities

- a. Provide information regarding sources of protection from intimidation and harm available to victims and witnesses.
- b. Provide information about the criminal justice process and the role of victims and witnesses in that process
- c. Provide clear explanations regarding legal proceedings
- d. Inform victim of the Utah Office for Victims of Crime and provide assistance in understanding procedures for obtaining financial compensation
- e. Provide restitution information to the court, including victims' names and claims

- f. Provide individual with timely notice of court appearances as well as postponements
- g. Inform parent/guardian of community resources available to children involved in crime
- h. Establish policies and procedures to encourage speedy disposition of criminal cases
- i. Inform victim within seven days of filing felony charges
- j. Provide victim notice of important hearings, after filing felony criminal charges and upon victim's request
- k. Introduce a photograph of the victim taken before the homicide, when appropriate

Courts' Responsibilities

- a. Provide information about the criminal justice process and the role of victims in that process
- b. Provide clear explanations regarding legal proceedings
- c. Ensure the victim has an opportunity to be heard at important criminal justice and juvenile justice hearings
- d. Preserve the victim's right to a speedy trial and disposition of charges
- e. Provide secure waiting areas away from the defendant
- f. Preserve privacy rights regarding victims' personal identifying information
- g. Ensure that age appropriate language is used during the testimony of a victim under the age of 13
- h. Protect the interview of child victims from being distributed, released or displayed to anyone without a court order
- i. At sentencing, order the defendant to pay restitution to the victim

Utah Office for Victims of Crime Responsibility

- a. Compensate victims of violent crime who suffer physical or psychological injury
- b. Provide training to allied agencies and publicize the program across the state
- c. Provide assistance through federal grants to public and non-profit organizations for direct and indirect services to victims of crime
- d. Act as a broker of victim services and provide networking of victim services

State Human Services Responsibilities

- a. Investigate allegations of abuse or neglect and provide protection for children, families and adults
- b. Assist in obtaining needed resources including counseling, medical or financial assistance
- c. Arrange for shelter or foster care for children as needed
- d. Provide protection against unnecessary interviewing of children, families and adult victims
- e. Upon proper request, notify victims of the juvenile offender's release from Juvenile Justice Services custody
- f. The Youth Parole Authority will inform victims of their options to participate in youth parole hearings
- g. The Youth Parole Authority will provide secure waiting areas away from the juvenile offender and the offender's family during parole hearings
- h. The Youth Parole Authority will contact victims and/or families of a juvenile offender's release from secure care

Corrections Responsibilities

- a. Assist victims to understand the prison incarceration process, parole and probation
- b. Intervene when victims are being contacted and harassed, directly or indirectly by offenders; this may include stopping unwanted telephone calls, letters or face-to-face contact
- c. Provide information regarding upcoming parole hearings. Explain the offender's conditions of parole and probation. Provide contact information for the offenders' Adult Probation and Parole Agent.
- d. Educate Utah Department of Corrections staff on the needs of victims and how to appropriately communicate with them
- e. Conduct the Victim/Offender Dialogue Program (explained on the Utah DOC website)
- f. Conduct the "Victim Wraparound Program" for victims of domestic violence & stalking
- g. Respond to inquiries from victims following a VINE message. Explain how VINE works and help with registration.
- h. Help victims with safety planning
- i. Determine the appropriateness of requests from victims to visit incarcerated inmates

Board of Pardons & Parole Responsibilities

- a. For BOPP processes, “Victim” is an individual against whom the offender committed a felony or Class A misdemeanor offense for which a hearing is being held
- b. All parole agreements include “no contact” conditions, which prohibit the offender from contacting the victim. Parole may be revoked for violating this condition.
- c. BOPP will notify victims of original hearings as required by law, and of other hearings if continuing notice is requested by a victim
- d. BOPP provides instructions for victims who attend, speak at, or want to provide written statements for BOPP Hearings
- e. BOPP orders restitution when applicable, as provided by law, as a condition of parole
- f. BOPP can inform victims of the State Crime Victim Reparations program and provide UOVC contact information
- g. BOPP will inform victims of Board decisions and offender release dates through its website and VINE.
- h. Victims should keep their address or phone number current with BOPP to ensure timely notification. Updated contact information can be submitted by contacting BOPP. This information is never released to the offender.
- i. Whether a victim gives testimony at a hearing or not, BOPP encourages victims to submit a statement (by mail or email) describing the impact the crime had on them. Please be aware that BOPP is required to disclose the complete statement to the offender.
- j. Victims may submit letters, statements, and updated contact information to BOPP at bopvictim@utah.gov, or by mail. Mailing address is Utah Board of Pardons & Parole, Attn. Victim Coordinator, 448 East 6400 South, #300, Murray, Utah 84107.
- k. Information regarding BOPP processes, hearings, and Board decisions regarding specific offenders may be found at www.bop.utah.gov

Judicial District Victims’ Rights Committees Responsibilities

- a. Establish and chair a committee with membership that consists of a county or district attorney, a sheriff, a corrections field services administrator, an appointed victim advocate, a municipal attorney, a municipal chief of police; and other representatives as appropriate
- b. Each committee must meet at least twice a year
- c. In the meetings, the committee shall review progress and problems relating to the Rights of Crime Victims Act, the Crime Victims Restitution Act, and Utah Constitution Article I, Section 28

- d. Victims and other interested parties may submit matters of concern to the victims' rights committee.
- e. The committee may hold a hearing open to the public on any appropriate matter of concern and may publish its findings
- f. The committee shall forward minutes of all meetings to the Utah Council on Victims of Crime for review and other appropriate action
- g. If a victims' rights committee is unable to resolve a complaint, it may refer the complaint to the Utah Council on Victims of Crime
- h. If the committee finds a violation of a victim's right, it shall refer the matter to the appropriate court for further proceedings

COMPLAINT PROCEDURES

Complaint Process

- a. Complaints must be submitted in writing and delivered to the Office of Crime Victim Reparations, which will acknowledge receipt of the complaint within 5 working days. The complaint will be sent to the appropriate District Victims' Rights Committee Chair.
- b. The committee will respond to the complainant within 60 days of receipt of the complaint. If a hearing before the committee is deemed appropriate, it will be held within 90 days. Time limits may be adjusted for extenuating circumstances.
- c. If the committee is unable to resolve the complaint within the prescribed time, a designated subcommittee from the Utah Council on Victims will review the complaint

Complaint Hearing

- a. The District Victims' Rights Committee may hold public hearings
- b. There must be a quorum consisting of half of the committee membership present at the hearing
- c. The complainant may testify in writing, appear in person, or be represented by another individual at complaint hearing
- d. An individual or agency named in the complaint may respond in writing, appear in person, or be represented by another individual
- e. If deemed appropriate by the committee, parties will be allowed to respond to the testimony. Time limits shall be set for rebuttals before hearing begins.
- f. Parties will be excused before committee discussion

- g. If a person or agency fails to respond, or if the issue cannot be resolved at the committee hearing, the matter shall be referred to the Utah Council on Victims of Crime

Possible Complaint Resolutions

- a. The committee may decide to refer the complaint to an appropriate agency and request that agency resolve problem by adhering to victims' rights statutes. The committee may then use any method allowed by law to ensure that recommendations are implemented.
- b. The committee may decide to take no action due to lack of merit or authority
- c. The committee may decide to refer the issue to the Utah Crime Victims Legal Clinic or the Utah Council on Victims of Crime

OTHER VICTIM RESOURCES

Crime Victim Reparations

If you are the victim of a violent crime, you may be eligible for compensation. Individuals who qualify for compensation are victims of violent crime who have suffered physical or psychological injury as well as dependents of deceased victims. To qualify, the victim must report the crime to police and must cooperate with law enforcement and prosecution.

Awards can be made up to \$25,000 for medical care, mental health counseling, loss of earnings, burial expenses, dental care, and loss of support to dependents. No awards can be made for property losses, except property that is essential to the health and safety of the victim. In cases involving homicide, attempted homicide, aggravated assault, and DUI, awards can be made up to \$50,000. Victims must exhaust all collateral sources such as Medicare, Medicaid, insurance, and worker's compensation, before an award will be made.

Funding of the program comes from criminal offenders through surcharges and fines.

For further information, visit Crime Victim Reparations website at www.crimevictim.utah.gov or call 801-238-2360 or toll free 1-80-621-7444.

Victim Assistance

Victims of Crime Act (VOCA) grants are federally funded awards available to private and public agencies that provide direct services to crime victims. Services available include crisis intervention, therapy, support groups, crisis hotline, shelter, criminal justice support, and emergency legal assistance. These services are housed within city and county prosecutors' offices, police departments, family support centers, children's justice centers, rape crisis centers, domestic violence shelters and mental health organizations

S.T.O.P. Violence Against Women Act (VAWA) grants, also federally funded awards, encourage the development and implementation of effective law enforcement and prosecution strategies to combat violent crimes against women and the development and enhancement of victim services in cases

involving crimes against women. VAWA grants are awarded to law enforcement agencies, prosecutors, courts, and to nonprofit victim services agencies.

Sexual Assault Services Programs (SASP) grants, also federally funded awards, are available to rape crisis centers across the state. This program specifically provides services to victims of rape and sexual assault. Services available include victim advocacy, crisis intervention, hotlines, and counseling services.

Restitution

Utah law provides that a sentencing judge shall order an offender to pay restitution when appropriate. Restitution is usually ordered if the judge is aware of the claim prior to sentencing. Restitution can be ordered for out-of-pocket expenses such as medical and property losses. Restitution cannot be ordered for “pain and suffering” or for punitive or exemplary damages. If an offender is sent to prison, judges are required to forward restitution orders to the State Office of Debt Collection if the restitution amount is not paid by the time of sentencing.

Judges are required to determine complete restitution, as well as “court ordered restitution,” which is the amount that must be paid by the offender while on probation. Even if restitution is ordered, there is no guarantee that victims will receive payments in a timely manner -- or at all. Most offenders have few financial resources available to them. If an offender fails to make restitution payments, there are legal options available to pursue collection.

Claims for restitution should be brought to the attention of the prosecutor as soon as possible. Victims can help Adult Probation & Parole by making sure that restitution is detailed and claimed in pre-sentence reports.

VINE (Victim Information and Notification Everyday)

VINE is an automated service that lets you track and receive notifications of the custody status of offenders in jail or prison. You can receive notifications by phone, text message or email. This notification empowers victims by providing valuable information that helps them participate in the criminal justice process, as well as information that may aid in safety and security of victims. Any person may register for this free service by calling 1-877-UT-4-VINE or visiting www.vinelink.com.

Utah Crime Victims Legal Clinic

The Utah Crime Victims Legal Clinic provides free legal representation to crime victims when victims' rights issues are at stake.¹ The Legal Clinic is available to serve victims of all types of crime throughout the state of Utah.

If you are the victim of a crime in Utah, the parent or legal guardian of a victim who is under the age of 18, or the family member of a crime victim who died because of a crime or was severely disabled because of it, the Legal Clinic may be able to help as you go through the criminal justice system. The Legal Clinic may also assist in obtaining civil orders of protection such as protective orders and stalking injunctions.

The Legal Clinic can provide referrals, connect you with important services, help you to use those services, and represent you in the criminal justice system to protect your legal rights. All Utah Crime Victims Legal Clinic services are free of charge. For more information, visit the Legal Clinic's website at www.utahvictimsclinic.org.

The Utah Crime Victims Legal Clinic:

- a. Provides free legal services for crime victims in criminal district, justice, juvenile and appellate courts;
- b. Recruits and trains pro bono attorneys and law students to provide legal services to victims; and
- c. Provides education to criminal justice professionals about victims' rights.

For further information or questions about this brochure, please call or write: State of Utah, Office of Crime Victim Reparations, 350 East 500 South, Suite 200, Salt Lake City, Utah 84111; call 801-238-2360 in Salt Lake County and toll free 1-800-621-7444 for all other areas of Utah.

Other Legal Resources Available to Crime Victims

Civil litigation is an additional meaningful option for recovery from emotional and physical damages which have resulted from the crime. In pursuing civil litigation, you are responsible to hire your own attorney.

Free legal clinics have been created to aid in the filing of civil protective orders, divorce actions, etc. Each clinic functions under its own funding mandates but is a good resource to explore if needing additional legal support.

Children's Justice Centers

Children's Justice Centers (CJC) primarily serve minors under 18 who are victims of alleged sexual abuse, physical abuse, or other crimes where the child is a primary victim or critical witness. After a report has been made to Child Protective Services or law enforcement, a child is brought to a Children's Justice Center - a safe, child-focused facility - to talk to a trained interviewer. A team of law enforcement, child protective services, medical and mental health providers, victim advocates, and prosecutors make decisions together about how to handle the case and help the child. Children and families are connected with services and supported throughout the process. CJsCs are administered by the Utah Attorney General's Office and operated through partnerships with counties. To find a Children's Justice Center near you or to learn more about the services of CJsCs, go to www.cjcutah.org.

Domestic Violence Shelters

Domestic Violence Service Providers serve individuals who have been impacted by domestic violence. They provide comprehensive wrap-around services for adults and children through shelter services, advocacy, case management, and prevention. These community-based programs have confidentiality protections under the Violence Against Women Act and serve everyone free of charge,

regardless of whether they have reported to law enforcement, have US citizenship or are actively participating in shelter services.

For further information on Domestic Violence services or to be linked to the nearest service providers, please call the free and confidential 24/7 Linkline at 1-800-897-LINK (5465).

Rape Crisis Centers

Rape crisis centers have advocates who are trained professionals and are prepared to connect survivors seeking out support to many different systems and resources available in the community. The advocates who work at these centers often have confidentiality protections under Rape Shield laws. This allows survivors to disclose concerns and seek out information about the reporting process before reporting takes place or explore other forms of justice, such as restorative forms of justice. The advocates at these centers aim to provide information and support so that survivors choose how to handle the aftermath of an assault.

Many of these crisis centers have mobile advocacy teams that can accompany survivors to the hospital during forensic exams. Crisis centers are also typically accompanied by crisis line phone services and have or can connect survivors to long-term mental health support to heal from sexual violence trauma.

These centers are generally non-profit organizations that are funded through foundations, state and federal grants and programs. Another valuable resource for survivors of crime.

For further information on Rape Crisis services or to be linked to the nearest service providers, please call the free and confidential 24/7 Crisis line at 1-888-421-1100.

More Questions?

As a survivor of crime, we want you to feel confident that your questions will be answered and your concerns addressed whenever possible. If you need additional information on services and support available to victims, please contact the Utah Office for Victims of Crime by calling: 1-800-621-7444.