

# Comments to the Department of Justice on Attorney General Guidelines for Victim and Witness Assistance

Prepared by



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The National Center is a nonprofit organization that advocates for victims' rights, trains professionals who work with victims, and serves as a trusted source of information on victims' issues. After more than 35 years, we remain the most comprehensive national resource committed to advancing victims' rights and helping victims rebuild their lives. Important to our comments, the National Center's work does not focus on one type of crime or victim, rather we work to address the universal needs of all victims.

We are grateful for the opportunity to provide comments and guidance to the Department on this important initiative and for the Department's commitment to serving victims of crime.

## **I. What are the major current issues in the crime victims' rights field from the perspective of victims' advocates?**

### **a. The Rights and Services for Crime Victims in the Time of a National Crisis**

The COVID 19 pandemic has revealed unexpected gaps in service delivery - especially in reaching and serving low income and rural victims, and ensuring their rights are respected. Though it appears a vaccine may be available within a year, it is crucial we learn from these gaps in the event of another national crisis or mass tragedy.

At the beginning of this crisis, the National Center unified our partners into a consortium to both monitor trends and needs within the victim services community and to disseminate crucial information. We began with a nationwide survey, receiving more than 400 responses from victim service organizations. We continue to monitor this community to identify trends.

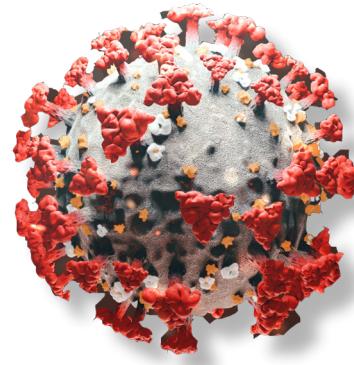
The overarching theme from the consortium was that there is a lack of meaningful access to technology for low income and rural Amer-

icans and that lack of access greatly impacts their safety and ability to interact with the criminal justice system.

Though we believed that technology had revolutionized the way victim service providers can assist victims, the use of those services saw a dramatic decrease in the very beginning of the pandemic. This decrease was likely due to a lack of privacy in households where domestic abuse occurs and the isolation of vulnerable victims, especially children.

Quarantine and stay-at-home orders compounded this issue by making it difficult to escape an abuser. In addition, during this crisis, chats and websites could not be accessed from traditional avenues such as public libraries, meaning low income Americans were left increasingly isolated.

As soon as stay-at-home orders were lifted, our own hotline Victim Connect, and many of our partner hotlines, saw a sharp surge in usage. For example, Victims Connect experienced a 180% volume increase and our Tribal Resource Tool had over 1,000 website hits in the month of October alone.



The predominant concern amongst victim service providers is two-fold. Once the pandemic is over, we expect this surge in demand to continue to an extent and will likely exceed the field's capabilities. Current funding levels to our services will not suffice in the post-pandemic United States.

In addition, field organizations serving victims indicate a need for not only restorative funding, but also guidance in reconfiguring service delivery models to meet demands posed by a post COVID-19 environment.

## **b. Rights for Victims within Historically Marginalized and Minority Communities**

The second major area of concern that we have identified is assisting victims and ensuring victims' rights in minority and historically marginalized communities. Often, victims in these communities will view law enforcement with suspicion and distrust. The natural consequence of this distrust is consistently low crime reporting rates, less willingness to cooperate with law enforcement, and a lack of critical services for victims of crime.

As a result, victims in marginalized communities are disproportionately being denied equal justice and needed services. A 2019 Center for Victim Research study found that victimization risk is highest among persons who are younger, male, black, living in the poorest households, and living in urban areas. However, young boys and men of color are often most unlikely to report their victimization.

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Compounding this issue is the fact that state crime victims' compensation often excludes victims and survivors who have criminal backgrounds, which then creates a barrier to relocating families. This is generally the biggest concern that law enforcement and prosecutors have identified within the Project Safe Neighborhood program, of which NCVC has been a grantee since 2018.

## **II. Recommendations for the Current AG Guidelines**

In reviewing the current AG guidelines, one primary opportunity for growth stands out: it is time to move beyond a focus on victims' rights and begin developing a criminal justice system that is responsive to victims' needs and offers victims a meaningful role in the criminal justice process. While the Victims' Rights movement succeeded in increasing protections and access for victims, victim involvement is still limited, and this hinders how the justice system responds to victims.

The current guidelines well define how victims' rights are upheld, yet a system responsive to victims' needs requires the infusion of victims' voices and creation of policies that encourage engagement of crime victims. We specifically recommend considering the following:

**a. Mandatory Trauma Informed and Vicarious Trauma Training:** Moving beyond victims' rights means that everyone interacting with a victim, from law enforcement to prosecutors and judges, understands and is trained on trauma, its impact, and how victims react in criminal justice settings.

We recommend that this effort includes training on polyvictimization. It is crucial to educate professionals in the field to look beyond "victimization type" and to understand that trauma is often a result of polyvictimization, as many crime victims experience several different types of victimization.

**b. Increased Information to Victims Regarding their Rights at Every Stage of the Criminal Justice Process:** Victims may not elect initially to opt-in to their rights but may change their minds as the process moves forward. How a victim feels, and the services they require, during prosecution is different from when an accused is sentenced and then from what victims need once an individual is released. Victims are often unaware of their right to

reengage. Victims should receive information about their rights and how they can meaningfully engage at each stage of the criminal justice system.

**c. Develop Methods to Share Information Across Government Victim Service Organizations:**

The current best practice within victim service organizations of sharing information and providing a warm handoff from advocate to advocate should be replicated within the DOJ. This should include contact with a victim at the beginning of each stage of the criminal justice process.

**d. Enhanced Information Regarding Post-Conviction Rights:**

Victims do not know how to meaningfully engage in community supervision. Advocate efforts typically focus on providing notifications to victims in the post-conviction stage, but little information is given as to their rights. This stage can be a terrifying time for victims, with the release of the offender into the community. Probation and parole officers have the unique ability to

inform victims about the process and give them information to help them feel safe. Creating more specific and consistent guidelines regarding what information can and should be shared with a victim supports a system responsive to survivor needs.

**e. Increase Restitution Collection Efforts:**

Willful violation of restitution payment is difficult to prove. It takes strong relationships with probation and parole officers who are more familiar with their clients' lifestyle and behavior. The increased participation of enforcement agents, parole officers, and prosecutors can increase the likelihood of payment to victims.

Once again, NCVC is grateful to the Department of Justice for its commitment to serving victims of crime, and for this opportunity to provide input. We are committed to serving as a resource to the Department going forward, and we are happy to provide you with further information if needed.