



SOUTH MIAMI POLICE DEPARTMENT

GENERAL ORDER NUMBER: 28.1	DATE OF ISSUE: July 31, 2011	EFFECTIVE DATE: Nov. 1, 2014	NUMBER OF PAGES: 06
CFA STANDARD: 17 SUBJECT: <i>Victim/Witness Assistance – ADMINISTRATION</i>	NEW (X) RESCINDS (X) AMENDS () OTHER ()	By Order Of:  Rene Landa Chief of Police	

CFA STANDARD: 17.05

SECTIONS:

- 28.1.1** **Summary of Rights**
- 28.1.2** **Policy/Procedure Development**

RESCINDS: All existing orders in conflict.

PURPOSE: To establish policy that defines the South Miami Police Department's determination to guarantee that both juvenile and adult victims and witnesses of crimes have their rights protected; to ensure that the agency provides assistance during the preliminary investigation and following the arrest of the suspect.

SCOPE: All departmental personnel.

POLICY: It is the policy of the South Miami Police Department to provide crime victims with initial information (VAN Pamphlet) covering victim's rights in accordance with current Florida State Statutes. Members shall make every effort to keep victims and witnesses informed of all schedule changes, offender status, general assistance, and where further information and support can be obtained regarding their case.

DEFINITIONS:

Victim: A person who suffers physical, financial, or emotional harm as the direct result of a specified crime committed upon his/her person or property. Victims are also regarded as a child, a parent, or a legal guardian of a homicide victim.

Witness: A person, as determined by law enforcement, who has information or evidence relevant to a specific crime.

PROCEDURE:

28.1.1 Summary of Rights

The South Miami Police Department is committed to the development and implementation of a Victim Rights Program. The department recognizes that victims and witnesses of any crimes have specific rights, as established in F.S.S. 960.001 and by the Office of the Attorney General. These rights, as outlined in the departmental VAN Pamphlet, are as follows:

- A. The right of the victim to receive information on local community services to include counseling, shelter, legal assistance or other types of help, depending on the particular circumstances. Telephone numbers of these services will be provided to the victims and witnesses as applicable.
- B. The right of the victim to receive information regarding the availability of crimes compensation, when applicable for victims of crimes or their relatives where the victim is deceased. Telephone numbers of these services are included in the VAN Pamphlet.
- C. The right of the victim or witness to receive information regarding his role within the criminal justice or juvenile justice system to include what the victim may expect from the system and what the system may expect from the victim.
- D. The right of the victim or witness to receive information regarding the stages of the criminal justice and juvenile process which are significant to the victim or witness and the manner in which information about such stages may be obtained.
- E. The right of the victim, who is not incarcerated, including the next of kin of a homicide victim, to be informed, present, and heard when relevant, at all crucial stages of a criminal or juvenile proceeding, to the extent that the right does not interfere with the constitutional rights of the accused.
- F. The right that victims and witnesses, who are not incarcerated shall not be required to attend discovery depositions in any correctional facility.
- G. The right that a victim or the next of kin of a victim may not be excluded from any portion of any hearing, trial or proceeding pertaining to the offense based solely on the fact that such person is subpoenaed to testify, unless, upon motion, the court determines such person's presence to be prejudicial.
- H. The right that incarcerated victims shall be informed of the crucial stages of the criminal and juvenile proceedings and be afforded the opportunity to submit written statements at all crucial stages of the proceedings.

- I. The right of a victim to a prompt and timely disposition of the case in order to minimize the period during which the victim must endure the responsibilities and stress involved to the extent that this right does not interfere with the constitutional rights of the accused.
- J. The right to be free from intimidation. It is against the law to cause a victim/witness to be placed in fear by force or threats, to make an assault on or harm any victim/witness. It is a felony to tamper with or threaten a witness. If a victim/witness is being threatened or intimidated, the victim/witness should contact the South Miami Police Department or any police officer.
- K. The right that each victim who has been scheduled to attend a criminal or juvenile justice proceeding shall be notified as soon as possible by the agency or person scheduling his appearance of any change in scheduling which will affect his appearance.
- L. The right to receive advance notification of judicial proceedings relating to the arrest and/or release (to include community control and work release) of the accused as well as the proceedings in the prosecution.
- M. In addition to the provisions FS 921.143, the rights of the victim of a felony involving physical or emotional injury or trauma or in a case in which the victim is a minor child or in a homicide, the guardian or family of the victim shall be consulted by the state attorney in order to obtain the views of the victim or family about the disposition of any criminal or juvenile case brought about as a result of such crime, including the views of the victim or family about:
 - 1. Plea Agreements.
 - 2. The release of the accused pending judicial proceedings.
 - 3. Participation in pretrial diversion programs.
 - 4. Sentencing of the accused.
- N. The right of the victim to a prompt return of property unless there is a compelling law enforcement need to retain it.
- O. The right of the victim to receive the assistance by law enforcement or State Attorney's office in notifying the victim's employer and creditors in order to explain his circumstances.
- P. The right of the victim to request and receive restitution and to receive information on how to enforce the courts order. The victim shall also have the right to be notified when restitution is ordered.

- Q. The right of the victim to submit an oral or written impact statement pursuant to FS 921.143 and the right to receive assistance from the State Attorney in the preparation of such statement.
- R. The right of the victim to be notified of the arrest, release and the escape of the accused.
- S. The right of the victim to have a victim advocate present during discovery deposition.
- T. The right of the victim to review certain portions of a pre-sentence investigation report for adult and youthful offenders prior to the sentencing of the accused.
- U. The victim and the State Attorney's Office with the consent of the victim, have standing to assert any legal rights of a crime victim as provided by law or The Florida Constitution.
- V. The right of the victim of a sexual offense to have the courtroom cleared, with certain exceptions, during his or her testimony, regardless of the victim's age or mental capacity.
- W. The right of the victim of domestic violence to be informed of the address confidentiality program administered through the Attorney General's Office.
- X. The right of the victim to know, at the earliest possible opportunity, if the person charged with an offense, which involves the transmission of body fluids, has tested positive for human immunodeficiency virus (HIV) infection. In such cases, upon request of the victim or the victim's legal guardian or of the parent or legal guardian of the victim if the victim is a minor, the court shall order such victim to undergo Hepatitis and HIV testing.
- Y. The right of a victim to request in sex offenses, under certain circumstances, if the victim is under the age of 18 or is a disabled adult or elderly person, that the court order the accused to undergo HIV testing regardless of whether the offence involves the transmission of bodily fluids. If requested by the victim, the results of the testing shall be made available to the victim no later than two weeks after the court receives such results.
- Z. The right of a victim to request, for specific crimes, an exemption prohibiting the disclosure of information to the public which reveals the victim's home and work telephone numbers, home and work addresses and personal assets not otherwise held confidential under the Public Records Law.

- AA. The right to request, in certain circumstances that the offender be required to attend a different school than the victim or siblings.
- BB. The statutory obligation to advise the victim or the next of kin of a homicide victim that any information gained pursuant to FS Chapter 960, regarding any case handled in juvenile court must not be revealed to any outside party, except as reasonably necessary in pursuit of legal remedies.
- CC. The right of the victim to receive reasonable consideration and assistance from employees of the South Miami Police Department. When requested, the victim will be assisted in locating accessible transportation and parking and shall direct those persons to separate pretrial waiting areas when such facilities are available. When so requested, this office shall also assist the court in attempting to locate translators.
- DD. The right of the victim assault to request the presence of a victim advocate during a forensic medical examination. An advocate from a certified rape crisis center shall be permitted to attend any forensic medical examination.
- EE. The right of the victim of sexual assault that no law enforcement officer, prosecuting attorney, or government official shall ask or require a victim of a sexual offense to submit to a polygraph examination or other truth-telling device as a condition of the investigation

28.1.2 Policy/Procedure Development

Departmental policies and procedures regarding victim/witness assistance to citizens are designed to achieve at least the following:

- A. Govern the implementation and delivery of victim/witness assistance services through departmental personnel. This will be achieved by:
 - 1. Informing all victims and witnesses of the availability of victim/witness services in Miami-Dade County;
 - 2. Providing information to victims/witnesses on methods available to law enforcement to protect those persons from intimidation;
 - 3. Retaining the property of crime victims only when necessary for successful investigation and prosecution. The property will be returned to the victim as soon as possible after completion of the investigation and/or prosecution;

4. Afford reasonable consideration and assistance to victims of crime and witnesses in the City and treat all victims and witnesses with fairness, compassion and dignity;
 5. Provide information and referral services 24 hours a day for victim/witness assistance, to be provided by the Communications Center or responding officers.
 6. Make an effort during a follow-up investigation to determine if the impact of a crime on a victim/witness has been unusually severe, and if the victim/witness is still traumatized. The detective or officer will refer the victim/witness to the appropriate agency for assistance.
 7. Scheduling of line-ups, interviews and other required appearances will be conducted at the victim/witness' convenience, whenever possible.
- B. Ensure the confidentiality of records and files of victim/witnesses and their role in case development to the extent consistent with applicable law, Florida State Statutes Chapter 119, by:
1. Securing specified confidential case records from public scrutiny;
 2. Submitting completed case files and records to the Records Section.
- C. The Chief of Police will periodically inform the media about victim/witness assistance services, as needed.
- D. Training and Educational Programs:

Departmental personnel will be provided with the latest information pertaining to victim's rights and services available to them through in-service training and/or roll call training.