

**The Center for Law
& Public Policy
on Sexual Violence**

A CRIMINAL JUSTICE GUIDE:

LEGAL REMEDIES FOR ADULT VICTIMS OF SEXUAL
VIOLENCE

A project of:

**The National Crime Victim
Law Institute**

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The grant also allowed for the development of legal resources for coalitions working on difficult systemic advocacy issues. This manual, *A Criminal Justice Guide: Legal Remedies for Adult Victims of Sexual Assault* was developed to help coalitions understand the challenges facing sexual assault survivors who find themselves involved in a criminal proceeding. It is best utilized in conjunction with its companion guide, *Rights and Remedies: Meeting the Civil Legal Needs of Sexual Violence Survivors*, which addresses victims' rights and remedies in the civil arena.)

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A Word on Language

For simplicity, the terms “victim” and “survivor” are used interchangeably throughout this guide, and a victim or survivor is generally referred to in the feminine form. We recognize that both women and men are victims of sexual violence. According to the Bureau of Justice Statistics, however, “[m]ost rapes and sexual assaults are committed against females. Female victims accounted for 94% of all completed rapes, 91% of all attempted rapes, and 89% of all completed and attempted sexual assaults.” BJS, 1992-2000, <http://www.ojp.usdoj.gov/bjs/pub/pdf/rsarp00.pdf> (last referenced August 30, 2005).

Disclaimer

This manual is current as of September 2005. It is intended as a guide for attorneys served under the Sexual Assault Coalition Technical Assistance Project to help them develop their own, state-specific manuals. Nothing in this manual constitutes legal advice. While many individuals and organizations contributed to this manual, the National Crime Victim Law Institute assumes responsibility for any errors.

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INTRODUCTION

Sexual violence survivors must confront complex personal, safety and legal issues in the aftermath of an assault. The legal issues may be addressed in the civil and/or the criminal justice systems. For many survivors, the criminal justice system is an unfamiliar and frightening morass of procedures, legal strictures, and competing interests. A survivor is often unaware of the range of rights available to her within the criminal justice system. Attorneys are still grappling with how to enforce existing victims' rights even as new protections continue to emerge.

The purpose of this manual, *Legal Remedies for Adult Victims of Sexual Violence, a Criminal Justice Guide*, is to provide an overview of a sexual assault survivor's rights within the context of a criminal prosecution, and to describe how a survivor and her attorney can seek to ensure the enforcement of those rights. The manual is intended to create a comprehensive framework that is applicable to all jurisdictions, with the hope that it will facilitate a formal collection of laws in each jurisdiction. While it is not designed as a detailed compendium of all the applicable laws in every jurisdiction, it may serve as a template that will aid in developing a state-specific guide.

In addition to providing an overview of both general crime victim and sexual assault-specific rights, this manual identifies a variety of laws and policies that may be beneficial to a survivor, but have not yet been enacted in her particular state. This will enable the victim and her attorney to formulate arguments that will best protect the victim's rights. The manual will also briefly discuss victim compensation, which is an important tool for a victim seeking financial redress for her injuries and losses.

Next, the manual navigates the reader through a step-by-step examination of criminal court procedures and identifies the key questions and issues that a sexual assault survivor and her attorney may encounter during the course of a criminal trial. Information symbols are located throughout the text to indicate additional information or research leads on specific issues. Additionally, there are text boxes titled "Victim Counsel and Remedy" which provide additional information regarding how to obtain counsel, utilize counsel and the remedies available to victims.

A note on Victim standing, Remedy and Review: The remedies for violations of a victim's rights and protection vary. In some cases a remedy is completely unavailable, depending on how state law is drafted. For an overview of remedies for a violation of a victim's rights and of a sexual assault victim's confidentiality, respectively, see Douglas E. Beloof, *The Third Wave of Crime Victims' Rights: Standing Remedy and Review*, 2005 BYU L. Rev. 255 (2005), and Douglas E. Beloof, *Enabling Rape Shield Procedures Under Crime Victims' Constitutional Privacy Rights*, 38 Suffolk L. Rev. 291 (2005). A brief discussion on remedies is also provided at the end of this manual.

CHAPTER ONE: SEXUAL ASSAULT VICTIMS' RIGHTS AND THEIR RELATIONSHIP TO CRIME VICTIMS' RIGHTS

Today, any effort to understand the sexual assault victim's role in the criminal process requires an understanding of both crime victims' rights generally and the rights specific to victims of sexual assault. Many of the laws that provide rights for victims of sexual violence are those that evolved out of either (1) the anti-sexual violence movement; or (2) the general victims' rights movement. These two movements have separate histories and, as a result, one can often identify the source of a particular law by whether it applies generally to all victims, or whether it applies specifically to sexual assault survivors.

For example, as a result of the crime victims' rights movement, many states have enacted constitutional and statutory protections for crime victims. These protections include the right to participate (in varying degrees) in the criminal process and to be treated with dignity or respect. These rights are applied generally to all crime victims. Meanwhile, in response to the unique concerns of rape victims, the anti-rape movement led the effort to establish rape shield laws and rape crisis counseling privileges. These protections were designed to safeguard this class of victims in particular. However, a sexual assault victim should be aware of and exercise all potential rights, regardless of their source. This section outlines the relationship between a sexual assault survivor's general rights as a crime victim and her sexual assault-specific rights, and how those rights can complement each other to provide the most comprehensive protection.

It should be noted, however, that nothing prevents a sexual assault survivor from seeking the benefit of both general victims' rights and sexual assault-specific protection, (such as rape shield laws and victim-advocate confidentiality). There are many contexts in which a sexual assault survivor may exercise general victims' rights. Therefore, a victim's attorney should be aware of these rights and consider them at the appropriate juncture. For example:

- A California court found that the right to give a sentencing recommendation when presented by a victim of sexual assault was clearly within the perimeters of the state's "Victims Bill of Rights" statute. *People v. Jones*, 14 Cal. Rptr. 2d 9, 10 (Cal. Ct. App. 1992).
- A Florida court found that the presence of a rape victim during the course of a trial was permissible pursuant to a "rights of victims" amendment of the Florida Constitution. *Bellamy v. State*, 594 So. 2d 337, 338 (Fla. Dist. App. 1992).
- In Massachusetts, a rape victim sought (albeit unsuccessfully) to exercise her right to a speedy disposition based on the "victim's bill of rights" which provides victims with the "basic and fundamental right [.] . . to a prompt disposition of the case in which they are involved." *Hagen v. Commonwealth*, 772 N.E.2d 32, 37 (Mass. 2002).

General victims' rights laws and those laws specifically designed to protect victims of sexual assault may complement one another. For example, several states specifically grant victims the general right of privacy (this is in addition to any state or federal constitutional privacy protections). This general crime victims' right to privacy may be asserted in conjunction with rape shield laws or evidentiary privileges, in an effort to ensure the law's integrity and enforcement.

General victims' rights and sexual assault victims' rights are likely to vary in terms of what triggers a specific right or protection. In some jurisdictions, the victim may need to affirmatively request notification (typically by filling out the form of the notifying agency) in order to receive notice of an event such as pre-trial hearing, sentencing, or release. Alternatively, in other jurisdictions, notice is mandated without requiring a prior request.

Moreover, the enforcement of specific rights or privacy protections must be initiated by the victim in almost all cases. The exception is where the prosecution has agreed to enforce the right or the protection, or it has been interpreted to be the prosecution's duty to enforce the right. *See, e.g., Casey v. State*, 44 P.3d 756, (Utah 2002) (holding that it was the prosecutor's duty to bring to the court's attention that the victim wished to exercise her right to oppose a lenient plea deal).

Finally, it is necessary to understand the criminal process in general and have knowledge of laws that may not be as easily identified as general crime victims' or sexual assault-specific victims' rights.

The development of this manual is a reflection of the fact that there is not one complete source of law that describes the rights and protections of sexual violence survivors. Rather, survivors must look to a variety of different areas of law to find which rights and protections may apply. For example, confidentiality provisions may exist in statutory schemes independent of the criminal process. There are many civil laws establishing certain kinds of confidentiality in records, such as employment, medical, mental health or school records. Should either party seek to subpoena these records, the victim should seek a pre-trial hearing to defend her privacy directly with regards to those records. Thus, the criminal process can be engaged to enforce laws that are not traditionally thought of as crime victim laws. These laws may include:

- Laws that specifically govern the prosecution of sexual assault or pertain to sexual assault victims;
- Court rules, rules of evidence or rules of criminal procedure;
- Rules of civil procedure;
- Administrative rules, *i.e.*, agency regulations, Freedom of Information Acts (FOIAs);

- Federal laws, *e.g.*, the Health Insurance Portability and Accountability Act (HIPAA), the Victims of Crime Act (VOCA), or the Violence Against Women Act (VAWA); or
- Local law enforcement, prosecutors, state agency policies and procedures.

Throughout this manual, we have attempted to indicate typical sources of the rights described. However, a thorough review of your state's laws — as well as an assessment of your local agency's policies — is necessary to uncover all potential sources of rights for sexual assault survivors.

CHAPTER TWO: VICTIM COMPENSATION

A sexual assault victim's life is often thrown into turmoil. She is often not prepared to meet the financial burden that is placed upon her as a result of her victimization. However, she may be entitled to access state funds that are set aside to compensate victims of crime. Crime Victim Compensation (CVC) funds help to alleviate the financial losses incurred by a victim (or a victim's immediate family members, in some cases) as a result of a violent crime. Although each state's law may vary with respect to eligibility, allowable expenses, payment guidelines, requirements for cooperation with law enforcement, etc., CVC funds are available to victims in every state.

Compensation is addressed first in this manual because it may become available shortly after the victim reports the crime. Conviction is not always necessary for the victim to be eligible for compensation. State-specific information about CVC is available online for all 50 states, the District of Columbia, and the U.S. Territories (American Samoa, Guam, Northern Mariana Islands, Puerto Rico, Republic of Palau, and the Virgin Islands). *See* http://www.ojp.usdoj.gov/ovc/help/voca_links.htm and <http://www.ojp.usdoj.gov/ovc/help/links.htm>.

When a victim and her attorney assess CVC, they should consider:

- Which state's or states' CVC scheme applies in the victim's case? Some states provide compensation to any victim who is a state resident or who was injured in the state. Others require that the victim was a state resident at the time the crime occurred. For this reason, in cases involving multiple jurisdictions, be sure to look at CVC provisions where the victim currently resides, where the victim was injured, and where the victim resided when she was injured.
- How does the victim get notice of the CVC benefits in your state? Is there an agency that is required to give notice (*e.g.*, Crime Victim's Assistance Program in a prosecutor's office or Department of Justice)?
- What procedure does the victim need to follow to receive compensation funds? Who is available to help the victim in this process? How does the victim learn of the availability of this assistance? What types of documentation of expenses are required or allowable? Are the CVC forms available in multiple languages?
- What are the limitations on receiving funds? For example, does the victim have to cooperate with law enforcement and pursue prosecution? Does the victim have to report the crime within a prescribed period of time? What is the time deadline for submitting an application? What crimes are compensable?

- What types of expenses are covered by CVC? May CVC funds be used to pay for an interpreter? Be creative in arguing what should be covered. Most states allow CVC funds to be used to pay for victim's legal counsel. A few states followed New Jersey's lead, and will allow CVC funds to pay for a victim's attorney in a criminal prosecution on matters unrelated to victim compensation.

VICTIM COUNSEL AND REMEDY

Some jurisdictions provide for paid counsel to assist with compensation. Others do not, thus requiring the victim to proceed *pro se* or retain an attorney at her own expense.

Typically, appeals from denials of compensation are administrative in nature, although a few jurisdictions allow appeals to be pursued through the courts.

CHAPTER THREE: CRIMINAL PROCEDURE FRAMEWORK

I. INTRODUCTION

For a sexual assault survivor and her attorney to effectively enforce her rights, they must have a concrete understanding of the procedural framework in which those rights operate. Subsection A of this introduction outlines the procedural stages in the chronological order in which a criminal case would typically proceed. Subsection B discusses the ways in which rights specific to sexual assault victims may be linked with rights that are applicable generally to crime victims. Subsection C focuses on victim standing to enforce these rights.

The remainder of this manual examines a sexual assault survivor's rights within the criminal process and, to a limited extent, the relevant civil or administrative accommodations that are ancillary to the prosecution. In addition, the "i" symbols throughout the guide highlight information within a specific practice or subject area.

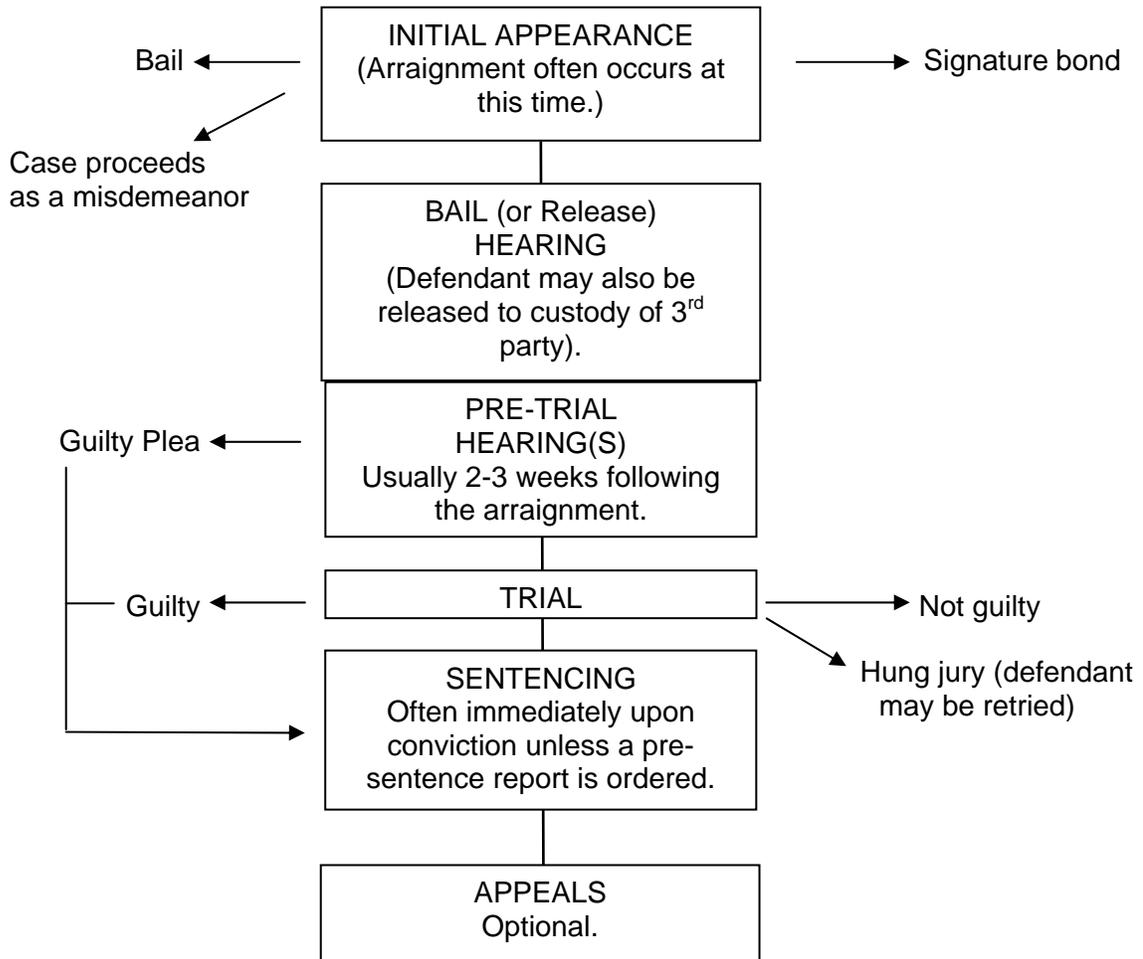
A. Stages of the Criminal Justice Process

When a victim initially comes into contact with the criminal justice system, she may not know how the process will progress. It is important to understand the basic steps in the process to best evaluate at which stage each of the rights and protections will attach. The sequence of events in the criminal justice process typically proceeds through the following stages:

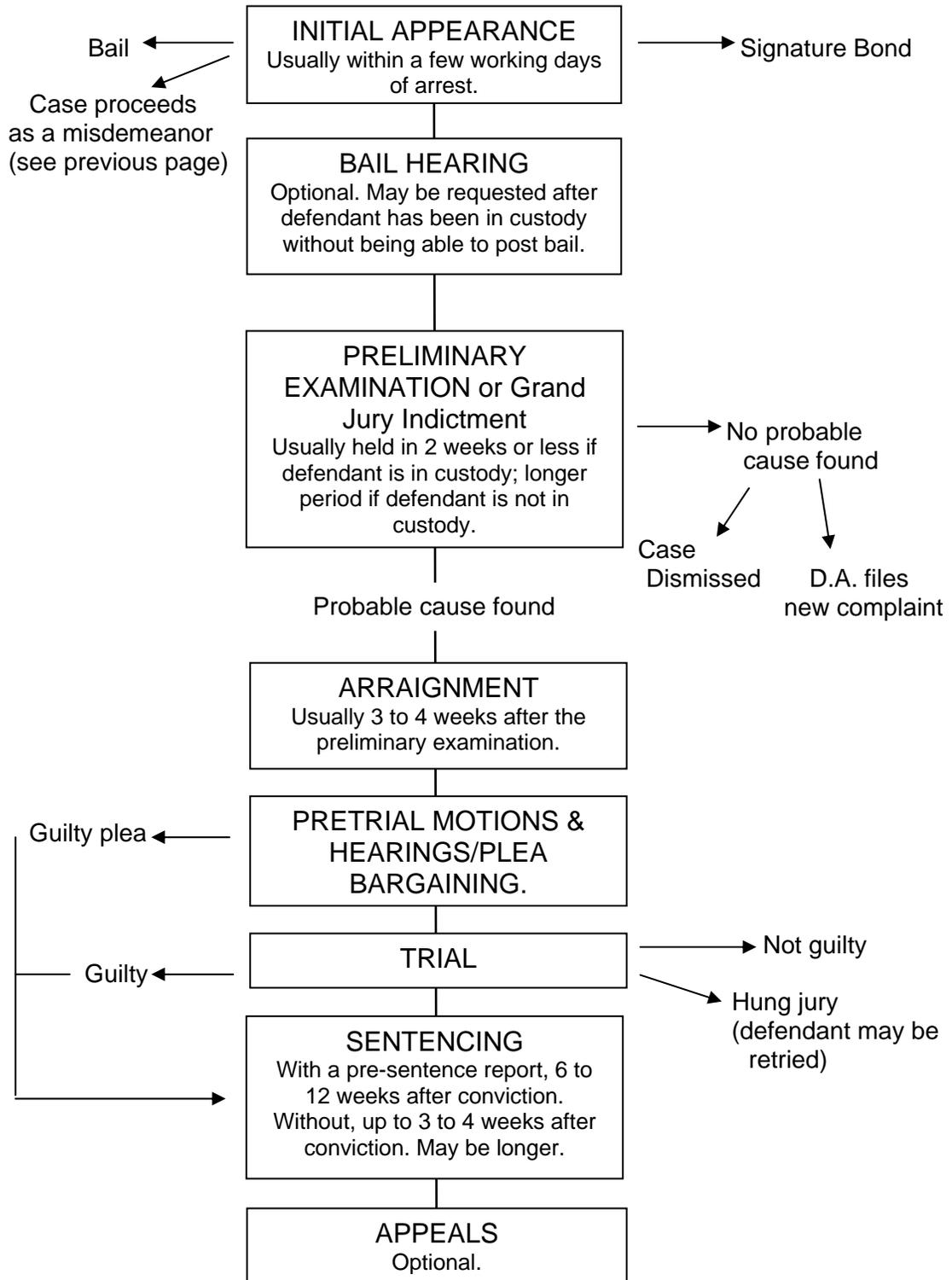
- Investigation
- Arrest or Citation
- Initial Appearance of Defendant
- Charging the Crime
- Arraignment
- Discovery/Pretrial Motions
- Plea Bargaining or Trial
- Sentencing
- Review and Appeals
- Probation and Parole

The flowcharts on the following pages outline the most common misdemeanor and felony court procedures in the criminal justice system.

MISDEMEANOR CASE COURT PROCEDURES



FELONY CASE COURT PROCEDURES



B. Specific Rights with Broad Constitutional Rights

When defending or asserting a victim's rights, it is important to remember that, in many jurisdictions, victims may also have generalized rights, such as the right to fairness, respect, dignity, privacy, or freedom from abuse. These broad rights may be found in state constitutions, including Crime Victim Rights (CVR) Amendments. CVR Amendments have been enacted in 33 states, giving victims powerful constitutional protections as crime victims. In the jurisdictions without CVR Amendments, such rights may be found in other constitutional provisions or state statutes. Federal constitutional protections, such as due process or equal protection, may also be implicated.

In order to effectively exercise or enforce a victim's rights, these broad rights should be linked with more specific victims' rights. For example, an argument that falls under a rape shield law could be linked to a broad state or federal constitutional right of privacy for all citizens. In another instance, a crime victim's right to make a statement at sentencing can be linked with the right to be treated with respect and dignity.

State-specific information on victims' constitutional rights is available on the web at: http://www.ncvc.org/ncvc/main.aspx?dbID=DB_Amendments128

C. Victim Standing To Enforce Rights

At the outset, in a criminal case a victim may confront the issue of whether or not she has standing to enforce her rights. However, no state court has denied a victim standing to exercise a mandated, non-discretionary right in the trial court. See Doug E. Beloof, *The Third Wave of Crime Victims' Rights: Standing Remedy and Review*, 2005 BYU L. Rev. 255 (2005). Further, no state appellate court has ever denied a victim trial court level access to exercise their rights. In *People v. Stringham*,¹ the court held that a victim had access to the trial court in order to make a statement to the trial court regarding a plea bargain. Access to the trial court was based upon a state statutory right granting victims the right to speak at sentencing and a plea-bargain involves sentencing issues.² The appellate court rejected the argument that the victim did not have trial level access, and held that "[i]t would be difficult to conceive of a more absurd result than to . . . prevent a victim . . . from having a meaningful opportunity to protest a plea bargain [in the trial court] that will allow a defendant to escape the punishment which the victim . . . feels is appropriate to the crime."³ For the *Stringham* court, the cost of denying trial level access is unacceptable because it denies the victim an opportunity to exercise her right.

¹ 206 Cal. Rptr. 184, 198 (Cal. Ct. App. 1988).

² *Id.*

³ *Id.* at 197.

Thus far, even in a situation where a state court takes an excessively restrictive view of appellate court access, trial court access has been required. The Massachusetts Supreme Court has held that a statutory provision providing a victim with a right to “prompt disposition” did not extend beyond the initial sentencing hearing.⁴ Nevertheless, the court went on to state: “We conclude . . . that a victim asserting the right . . . should be provided with an opportunity to address the [trial] court when that right is jeopardized.”⁵ For the Massachusetts court, denying the victim access to the trial court in order to defend their rights was unacceptable. A thorough treatment of victim trial level standing under a state constitution may be found in the New Jersey case of *In the Interest of K.P.*⁶

In addition, a victim traditionally has standing in trial courts to defend against subpoenas of private records and defend evidentiary privileges, such as therapy communications based on privacy rights. See “Discovery/Pretrial Motions,” beginning on page 35. Furthermore, as a matter of due process, third parties, even absent a specific victim or sexual assault right, may move to quash subpoenas or resist discovery requests.

On the other hand, rape shield protections often involve closer questions of standing. For example, a victim can defend the rape shield ruling directly and bring an interlocutory appeal of adverse ruling in some jurisdictions, but not in others. See “Review and Appeals” on page 45 for information on a victim’s ability to enforce rights in appellate courts. See also Appendix B, “NCVLI Chart on Interlocutory Appeals of Rape Shield Rulings.”

⁴ *Hagen v. Commonwealth*, 772 N.E.2d 32, 34, (Mass. 2002).

⁵ *Id.*

⁶ 709 A.2d 315 (N.J. Super. Ct. Ch. 1997).

II. INVESTIGATION

The investigation of sexual assault can often be a daunting and invasive process. Knowing the rights and protections available to survivors throughout investigation will help empower victims. The victim and her attorney should be aware of the applicable laws pertaining to investigation as well as local investigative agency policies and protocols. This section focuses specifically on crime victims' rights that may be implicated throughout the investigation of a crime.

A. Use of Interpreters

Confronting the criminal justice system can be even more daunting when the victim is non-English speaking or hearing impaired. Interpretation is a fundamental necessity for an effective investigation of a crime committed against a non-English speaking or hearing impaired victim. There are a few important questions that the victim and her attorney should research when the victim is in need of an interpreter:

- Are there statutes, protocols or policies requiring a competent interpreter to be provided to victims? Are non-English speaking and hearing impaired victims subject to different protections? For example, does the Americans with Disabilities Act require government agencies to provide hearing-impaired victims interpreters?
- Does your state certify interpreters and if so, was a certified interpreter employed during all stages of the investigation and prosecution, including sentencing and post-sentence hearings?



See Appendix C, “NCVLI Chart on Right to An Interpreter.”

B. Evidence Collection

The collection of evidence is essential to the prosecution of sexual assault; however, it can also be a sensitive and intrusive process for a victim. It is therefore crucial that both the victim and her attorney know and understand the rights and protections afforded to her relating to the collection of evidence. For example, what types of evidence collection are required and who bears the financial burden of evidence collection are issues that may arise. The following subsections propose a number of questions that the victim and her attorney should be prepared to research and answer.

1. Gathering Evidence from the Crime Scene

- What are the governing laws, policies and procedures?
- The “crime scene exception” to the warrant requirement allows police to seize and process a scene without a warrant. Is a victim’s consent needed to investigate the scene if it is her home or workplace?
- Who pays for the forensic examination of the victim? Is the state only a payor of last resort? Does the victim have to request reimbursement or is the cost automatically billed to the law enforcement or other agency?



Typically, limits governing searches and the crime scene exception are found in the Fourth Amendment and equivalent state constitutional search and seizure provisions. There are several legal treatises on this subject. Wayne LaFave’s *Search and Seizure: A Treatise on the Fourth Amendment* and Barry Latzer’s *State Constitutional Criminal Law* address this topic.

2. Gathering Evidence from the Person and Clothing of Victim

- What are the governing laws, policies and procedures?
- Are there evidence collection protocols with police or crime lab?
- How is the victim’s consent obtained?
- What if the victim is a minor (who may grant or withhold consent)?
- Are the examinations conducted in private hospital rooms; does the survivor have control over who is present in the room; are the persons administering the examination trained or certified?
- Do victim advocates respond to the hospital or crime scene?
- Is the examination paid for by the government (police, state)?



Typically, laws governing evidence collection from the person of the sexual assault victim are state statutory, administrative regulations or interagency protocols.

C. Interview of Victim

During the investigation the victim may be asked by the police or prosecutor to submit to an interview.

- Are there protocols, procedures or training for detectives or for line police officers on how to interview a rape victim?
- If so, do these protocols or trainings include information on how to avoid re-victimization when interviewing the survivor?
- Are rape crisis advocates available to the survivor? Are there protocols addressing in what circumstances and by whom the advocate is contacted? What advocate is contacted?
- Does state law require that a victim receive any information about her right to have an advocate, the district attorney, or the victim's lawyer, present for a law enforcement interview, prior to the interview?
- Are there laws that allow a victim to refuse an interview, typically an interview requested by defense counsel?
- Who else may be able to refuse an interview, *i.e.*, parents or guardian of a minor victim?



At common law, a victim did not have to submit to an interview with law enforcement. In the absence of a statute requiring an interview, a victim is free to refuse. In many states, you will not find any statute on point. This means the victim can refuse the interview. Otherwise, check to see if there are any constitutional, statutory, or court rule provisions requiring interviews or granting a victim the right to refuse an interview. These same laws should identify anyone who may accompany the victim to the interview. However, statutory authorization is not necessary for the district attorney, the victim's lawyer, or a support person to be present at an interview.

D. Information to the Victim

Written policies, procedures and protocols for providing information to a victim are often in the possession of the investigative agency and are usually available when requested. The right to confer with the district attorney is typically a general victims' right found in the state constitution or statutes. Absent such laws, the district attorney's policies may contain such a provision.

- Is there an advocate a victim may speak with in order to stay informed?



The answer to this is not in law but in asking the relevant agency whether such advocates are available.

- What may happen if the victim retains an attorney? (*e.g.*, Is the district attorney prohibited from communicating with a represented party? If so, clarify how communications will occur. Note the risk and have a plan for how to respond if a district attorney refuses to prosecute because the victim has a lawyer.)
- Does the victim have the right to access the police report? When and at what cost?



As a general rule, police reports are unavailable to private persons, including a victim, absent statutory authorization or the consent of the police agency filing the report. A FOIA request may be an avenue to receive reports but typically exempt ongoing investigative reports. Look for statutes authorizing disclosure.

E. Health Issues

Sexual assault survivors may experience a range of physical and mental health issues for which they may need ongoing treatment.

- Is HIV or STD testing available? May the victim request that the perpetrator be tested, or is it up to the prosecutor to make the request? Is it discretionary or must the judge issue the order if the proper party so requests?
- Who pays for the test(s)? What are the rules of confidentiality around such testing? What if the victim is a minor? Who may authorize such a test and to whom will the results be released? (*See* Appendix A, “NCVLI Chart of HIV Testing Statutes by State.”)
- Is emergency contraception available? Who pays for it? What are the rules of confidentiality around such contraception? For example, if the victim is a minor, is it mandated that a parent/guardian be informed? Must a parent/guardian consent to administration? NARAL publishes a summary of states that offer emergency contraception to sexual assault victims:

<http://www.prochoiceamerica.org/Issues/contraception/loader.cfm?url=/commonspot/security/getfile.cfm&PageID=17521>

- Who has authority to release or withhold a minor’s health, counseling,

or other health-related records? Is the outcome any different if the treating clinic or provider is school-based? Services provided to minors may not be confidential, depending upon the law and the counselor's practices.

- How, when, and by whom is the victim informed whether counseling records and treatment will (or will not) remain confidential? Absolute confidentiality may or may not be available for counseling and counseling records, depending on who provides the counseling, whether the state has an absolute or qualified privilege law, and to what extent state courts have upheld the nature of the privilege.
- What are the policies of the counseling agency and/or the provider regarding subpoena response and client records?

F. Polygraph of the Survivor

- Is the polygraph of a sexual assault survivor forbidden or curtailed as a matter of law?
- If there is a statute addressing polygraphs, to whom does it apply, at what stage, and under what circumstances? Some states prohibit polygraph testing as a condition of prosecution but allow it for other purposes. Some states prohibit law enforcement officers from administering a polygraph but will permit prosecutors to administer them.



Generally, these are statutory or policy prohibitions. See Appendix D, “NCVLI Chart on Polygraph Testing of Rape Victims.”

G. Adequate Investigative Techniques

Typically, there are not laws providing for investigative techniques. Policies or protocols may set forth the minimum investigative requirements, including evidence gathering. Check with local law enforcement agencies regarding protocol, policies, or procedures for investigating sexual assault cases.

H. Availability of Private Investigation

Generally, a victim has the right to conduct a private investigation as long as it does

not interfere with criminal or civil laws. Survivors should be aware that competent investigations often require a degree of sophistication that will require hiring private help and legal advice.



The limits on private investigation are “criminal” and “tortious” conduct. You will not find statutes that otherwise detail this. The exceptions are laws and regulations limiting the conduct of state licensed private investigators. There also may be ethics rules limiting when and under what circumstances a lawyer may supervise an undercover investigation. See *In Re Conduct of Gatti*, 8 P.3d 966 (Or. 2000) (“A lawyer violates [the disciplinary rules] by misrepresenting his or her identity and purpose when contacting someone who is likely to be adverse to the lawyer's client.”)

VICTIM COUNSEL AND REMEDY

Private attorneys are allowed to assist the victim in conducting a private investigation. See *State v. Claus von Bulow*, 475 A.2d 995 (R.I. Sup. Ct. 1984) (describing as lawful the retention of a private attorney to conduct private investigation). Typically, such attorneys must be retained. Absent statutes mandating investigations, as a general rule, the decision to investigate and the manner of investigation is in the discretion of the investigating agency. There have been no successful suits to compel a public investigation because of the broad investigative discretion afforded government law enforcement and district attorney offices. In order to have a remedy, a statute must exist mandating the government conduct sought to be compelled.

I. Victim’s Police Report Confidentiality

Keeping a victim’s information confidential can be essential to her recovery and security. A survivor and her attorney should be aware of what types of laws and policies protect victim-identifying information in police reports.

- May a victim request specific information (*e.g.*, Social Security number, address) be excluded or redacted?
- Do the police have policies of non-release? Is the burden on the victim to request that the report be kept confidential?
- Do state FOIA or other public records laws in the state prevent accessing police reports of sexual assault victims?
- How does the victim learn of these confidentiality laws?

Below are examples of statutes and case decisions that protect victim information in police reports from the public and the press.

California: Cal. Penal Code § 293. Victims of sex offense; request that name not become matter of public record; disclosure of victims' name or address.

- (a) Any employee of a law enforcement agency who personally receives a report from any person, alleging that the person making the report has been the victim of a sex offense, shall inform that person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to Section 6254 of the Government Code.
- (b) Any written report of an alleged sex offense shall indicate that the alleged victim has been properly informed pursuant to subdivision (a) and shall memorialize his or her response.
- (c) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections, hearing officers of the parole authority, or other persons or public agencies where authorized or required by law, the address of a person who alleges to be the victim of a sex offense.
- (d) No law enforcement agency shall disclose to any person, except the prosecutor, parole officers of the Department of Corrections, hearing officers of the parole authority, or other persons or public agencies where authorized or required by law, the name of a person who alleges to be the victim of a sex offense, if that person has elected to exercise his or her right pursuant to this section and Section 6254 of the Government Code.

California: Cal. Penal Code § 293.5. Identification of alleged victim as Jane or John Doe.

- (a) Except as provided in Chapter 10 (commencing with Section 1054) of Part 2 of Title 7, or for cases in which the alleged victim of a sex offense, as specified in subdivision (e) of Section 293, has not elected to exercise his or her right pursuant to Section 6254 of the Government Code, the court, at the request of the alleged victim, may order the identity of the alleged victim in all records and during all proceedings to be either Jane Doe or John Doe, if the court finds that such an order is reasonably necessary to protect the privacy of the person and will not unduly prejudice the prosecution or the defense.

California: A trial court retains considerable discretion to protect a witness's identity before trial. *Alvarado v. Superior Court*, 5 P.3d 203 (Cal. 2000), *rehearing denied, cert. denied*, 532 U.S. 990 (2001).

Colorado: C.R.S. § 24-72-304.

- (4)(a) The name of any victim of sexual assault or of alleged sexual assault shall be deleted from any criminal justice record prior to the release of such record to any individual or agency other than a criminal justice agency when such record bears the notation “SEXUAL ASSAULT” prescribed by this subsection (4).
- (b)(I) A criminal justice agency or custodian of criminal justice records shall make the notation “SEXUAL ASSAULT” on any record of official action and on the file containing such record when the official action is related to the commission or the alleged commission of any of the [enumerated sex offenses].

Florida: Title XLVI. Crimes § 794.03. Unlawful to publish or broadcast information identifying sexual offense victim.

No person shall print, publish, or broadcast, or cause or allow to be printed, published, or broadcast, in any instrument of mass communication the name, address, or other identifying fact or information of the victim of any sexual offense within this chapter. Such identifying information is confidential and exempt from the provisions of s. 119.07(1). An offense under this section shall constitute a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Illinois: In the case of *In re A Minor*, 595 N.E.2d 1052 (Ill. 1992), the court upheld the validity of a statute prohibiting the disclosure of the identity of minor victims of sexual and physical abuse. The statute relied upon provided that the “general public except for the news media and the victim shall be excluded” from juvenile hearings and further provided that a juvenile court may “for the minor's protection and for good cause shown, prohibit any person or agency present in court from further disclosing the minor's identity” (Ill. Rev. Stat. ch. 37 par. 801-5(6) (1989)).

Michigan: MI. Penal Code § 750.520k. Suppression of names and details regarding offense.

Upon the request of the counsel or the victim or actor in a prosecution under sections 520b to 520g the magistrate before whom any person is brought on a charge of having committed an offense under sections 520b to 520g shall order that the names of the victim and actor and details of the alleged offense be suppressed until such time as the actor is arraigned on the information, the charge is dismissed, or the case is otherwise concluded, whichever occurs first.

South Carolina: § 16-3-730. Publishing name of victim of criminal sexual conduct unlawful.

Whoever publishes or causes to be published the name of any person upon whom the crime of criminal sexual conduct has been committed or alleged to have been committed in this State in any newspaper, magazine or other publication shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars or imprisonment of not more than three years. The provisions of this section shall not apply to publications made by order of court.

III. INITIAL APPEARANCE OF THE DEFENDANT

Federal law requires that the defendant have an initial appearance in court where he is advised of his rights. At this time, the court typically appoints an attorney for the defendant (if one has not already been retained by this time) and often examines the defendant's release status. The initial appearance of the defendant raises numerous implications for victims and can potentially trigger a number of the victim's rights and protections. Statutes or rules of criminal procedure, or both, outline the initial appearance procedures.

A. Does the victim have the right to notice of, and attendance at, the defendant's initial appearance?

The subject of general victims' rights is found in state constitutions, statutes, or court rules. Look to these to answer the following questions:

- Who is responsible to inform the victim of her rights?
- Does the victim have the right to speak at the initial appearance or at a release hearing?

VICTIM COUNSEL AND REMEDY

If the victim has a right to be heard, then a lawyer for the victim should be permitted by the court to appear and represent her as a matter of due process under federal or state constitutions. Failure to provide the victim her right generally should result in a motion for reconsideration, seeking a hearing to allow the victim to speak and have that information incorporated into a new release decision.

B. How easy is it for the defendant to be released?

- On own recognizance

- Third party release
- Bail

In some states, the state acts as its own bondsman, thereby enabling a defendant to be released upon posting a percentage of the required bail.

C. Does the victim have a right to protection?

Some state constitutions or statutes provide for a victim's right to protection. During the initial appearance, the victim can argue for specific protective measures, including:

- Home Detention Monitoring;
- Global Positioning Satellite (GPS) Services;
- VINE (Victim Information and Notification Everyday); and
- Civil Protective Orders (CPOs) (these may include protective orders for victims of sexual assault, domestic violence, stalking, elder abuse and/or tribal orders). For a more detailed discussion of safety and CPOs, see NCVLI's companion guide, *Rights and Remedies: Meeting the Civil Legal Needs of Sexual Violence Survivors*.

D. Is a “no contact” order available (or automatic) as a condition of release?

- Does a state statute or court or other rule require that the court impose certain release conditions? If so, may these conditions be waived or modified? Upon whose motion (victim's)?
- What are the standard terms of mandated orders (no direct or indirect contact with victim, no drugs or alcohol, no firearms, obey all laws, etc.)?

E. Are sexual assault-specific restraining orders available?

- Is anyone responsible for informing the victim of the availability of civil protective orders?
- Is there representation for crime victims in contested civil restraining order hearings?
- Are civil or criminal remedies available for violation? If the state allows both, what are the advantages and disadvantages of each?

VICTIM COUNSEL AND REMEDY

A private lawyer can represent a victim in a civil restraining order application and contested proceeding. If there is a violation of the order, the court can generally enforce the violation by civil or criminal contempt. Statutes or court rules may specify which remedy is available. If the remedy is criminal contempt, the district attorney typically prosecutes; if it is civil contempt, the victim's lawyer, or the victim proceeding *pro se* may prosecute. See in your state what statutes authorize restraining order enforcement procedures and remedies if the order is denied.

F. Is there an applicable Bail Reform Act?

Bail Reform Acts allow a defendant to be held if he is dangerous to the community or a particular victim. Pre-dating this reform, defendant release decisions were centrally based on whether the defendant would show up for trial. Thus a Bail Reform Act provides a statutory basis for the prosecutor to ask the defendant to be held because of his dangerousness. See *United States v. Salerno*, 481 U.S. 279 (1987) (holding the federal Bail Reform Act constitutional).

Combined with the victim's right to confer with the prosecutor, the victim's right to be heard at release hearings, or the victim's right to protection, a bail reform act can provide a real hope that the defendant will not be released pretrial.

- Is there a Bail Reform Act in the state? If there is, it will be in a statute or the state rules of criminal procedure.
- Can it be applied in sexual assault cases?

VICTIM COUNSEL AND REMEDY

Typically only the state can move for application of the Bail Reform Act. However, if the victim has a right to speak at release hearings, the best approach is to argue that the victim and her lawyer can argue for its application, barring explicit law to the contrary.

G. Does the victim have the right to confer with the prosecutor concerning the victim's position on release prior to the release hearing?

This is a general victim's right which, if it exists, will be in the state constitution, statute, or court rule.

VICTIM COUNSEL AND REMEDY

If the victim has the right to confer, presumably an attorney can be part of such a conference. Failure to allow counsel should result in application for a court order commanding that the attorney be allowed to be present, or the filing of a writ of mandamus of the prosecutor for refusing to allow the victim's attorney to be present.

H. May a support person or advocate be present with the victim at the initial appearance?

- Who gets to decide whether a support person or advocate may be present? Is there a statute on point? *See, e.g.*, Oregon SB 198A, which goes into effect on January 1, 2006, and allows a victim of a person crime to have a support person accompany the victim through the investigation and prosecution process.



There may or may not be statutes or rules addressing this. Typically, courts are accustomed to allowing the presence of victims' advocates. This is under the court's inherent authority to run the courtroom. The trial is public, and typically only witnesses may be excluded. Thus, if the victim's support person is a witness, there could be a motion to exclude them. Sequestration or exclusion of witnesses is governed by the state rules of evidence (often Rule 615). See "Rights at Trial," Section VII, below, for more information.

I. Is anyone responsible at the initial appearance for advising the victim of her victims' rights?

This is a general victims' right which, if it exists, will be in the state constitution, statute or court rule.

VICTIM COUNSEL AND REMEDY

If the victim has a right to be heard then a lawyer for the victim, at the victim's expense, should be permitted by the court as a matter of due process under the federal or state constitutions.

This question also addresses available resources, in addition to if it is lawful for the victim to be represented to exercise or enforce her rights. Typically the victim's right to have an attorney present at her own expense is not an express right that is articulated in a specific statute.

IV. CHARGING THE CRIME

This section discusses how the charging process is initiated and the implications of the charging decision itself. In particular, it explores a victim's ability to challenge a charging decision and also the decision not to charge the defendant. Additionally, this section examines a sexual assault victim's rights within the charging process.

The laws governing the "charging" of the defendant in a criminal case vary from state to state. Consistent in every state, however, is the presence of prosecutorial discretion to charge or not charge and to influence the nature or severity of the charge. When prosecutors refuse to charge, there may be a "check" on this non-charging authority. The first issue to address is whether grand juries are authorized in the state.⁷ If a grand jury proceeding is used there are typically either statutory or case law procedures setting forth how victims may independently approach the grand jury. (Indeed, if the authorities refuse to investigate, the grand jury has investigative powers independent of law enforcement).

In a very few jurisdictions there are statutory procedures for challenging the prosecutor's decision not to charge. Even rarer, in Wisconsin there is a process for judicial investigation, called a John Doe proceeding. In a John Doe proceeding, a judge has the authority to question a complainant and witnesses under oath, subpoena witnesses upon request, and order issuance of a complaint and arrest warrant. *See Wisconsin v. Washington*, 266 NW 2d (Wis. 1978). In some states, victims can proceed independently on misdemeanor charges. *See Cronan v. Cronan*, 774 A.2d 866 (R.I. 2001) (allowing private prosecution of spousal abuse).

The following section focuses on a victim's ability to challenge the charging decision. The remaining sections detail specific rights that may be available to a victim in different aspects of charging.

A. Challenging a Charging Decision

1. Victim's Ability to Challenge Decision Not to Charge

The potential rights of a victim in charging will depend on which procedure is used to charge in your state, grand jury or preliminary hearing:

Grand Jury

- Is the grand jury available in your jurisdiction?
- Who may convene? In some states, a private citizen may convene a grand jury. In others, only the prosecution may convene.

⁷ States may use either a grand jury proceeding or a preliminary hearing procedure to formally charge a crime. In states that employ both procedures, it is the prosecutor who may decide which proceeding to employ.

- What are the procedures for citizen access to the grand jury? (*Note:* citizen access may vary from direct access, access with the court's permission, or access by circulating and submitting petitions signed by registered voters).

Preliminary Hearing

If the grand jury is not available in your jurisdiction, then charges are brought through a preliminary hearing. Sexual assault victims must be aware that a preliminary hearing is a far more public procedure than the grand jury, thus infringing on a victim's privacy interests and potentially exposing her to cross-examination by the defendant's lawyer.

- One solution to the privacy problem in preliminary hearings is a statute that allows for a procedure without the victim's appearance. Instead, the case agent presents the victim's statement as given to the police. For example, Utah has such a provision. *See* Paul Cassell, *The Case for and the Effects of Utah's Victims' Rights Amendment*, 994 Utah L. Rev. 1317, 1334-37 (1994).

There is little law on a victim's ability to obtain a preliminary hearing when the state has not sought to charge. Certainly there would be nothing unconstitutional about such a procedure. Indeed, Pennsylvania has adopted a similar provision. *See Commonwealth v. Benz*, 565 A.2d 764 (Pa. 1989) (upholding a statute allowing court review of prosecutor's decision not to charge where decision was based on lack of probable cause).



Statutes may govern citizen access to grand jury, less commonly, statutes may set up processes for challenging the prosecutor's decision not to charge. Case law may also govern prerequisites to grand jury access in your state. *See* Peter Davis, *Rodney King and the Decriminalization of Policy Brutality in America*, 53 Md. L. Rev. 271 (1994) (reviewing victim's grand jury access).

2. Victim's Right to Elect Between Procedures

In most jurisdictions with both grand jury and preliminary hearing charging procedures, prosecutors may elect between the grand jury or preliminary hearing. If both the grand jury and preliminary hearing proceedings are available, may the victim confer with the prosecutor to request one or the other? Individual district attorney's offices have very different approaches to this. In Portland, Oregon, for example, all sexual assault cases are taken to a grand jury to protect the victim's privacy. In contrast, in San Diego, California, such cases go to preliminary hearing and all parties have a glimpse of how the case will fare at trial.



See cases collected as of 1999 in Douglas E. Beloof, *Victims in Criminal Procedure*, at 355-56 (Carolina Academic Press, 1999).

B. Victim's Rights in Charging

1. Victim's Right to Notice and Attendance

Generally, a victim may appear in the grand jury only in the capacity of a witness. A victim's right to attend criminal proceedings typically does not include the right to attend grand jury proceedings. (Grand jury procedures are covered in statutes or rules of criminal procedure and case law.) However, when the formal charging mechanism is a preliminary hearing, a victim typically may attend. Victims' rights laws usually expressly allow a victim to attend any proceeding the defendant may attend, such as a preliminary hearing.

VICTIM COUNSEL AND REMEDY

Victim lawyers are not allowed in grand jury proceedings without an order from the presiding court. Cases allowing such attorneys have involved circumstances where the victim's attorney was assisting the public prosecutor and was under the prosecutor's control.

2. Victim's Right to Have Support Person Present

The presence of a support person for the victim in the grand jury proceeding is permissible by court order. Typically, these orders are presented by prosecutors. No such order is needed for a support person to accompany the victim to a preliminary hearing, as these hearings are open to the public. A notable exception might be if the support person is also a witness in the case and there is an evidentiary provision providing for the sequestration of witnesses. (If the victim's support person is a witness and the victim still wants someone to accompany her at the preliminary hearing, look to find an advocate for the victim.)



Because such orders are in the inherent authority of the court as administrator of the grand jury, an order to allow a support person to accompany a victim into the grand jury may be obtained in absence of statute or court rule. Where a statute or court rule on point exists, it will govern applications for such orders.

3. Compelling the Survivor to Participate in Charging

The state has the power and procedural tools to compel a victim to testify against a perpetrator. All people, including victims, who refuse to respond to a subpoena can be held in contempt and jailed until they agree to testify. This power is typically not exercised in sexual assault cases, but there are circumstances in which it does occur. For example, in April, 2005, a judge in Reno County, Nevada, held a victim in contempt and jailed her for three nights for refusing to testify at a preliminary hearing. (*See "Rape, kidnap charges fall after victim fails to testify"* available at <http://www.kansasnewsday.com/node/492>.) The charges against the defendant, Anthony Jefferson, which included kidnapping, rape, and

criminal sodomy, were dismissed when the victim refused to testify against him. Similarly, in September, 2003, a judge in Hamilton County, Ohio, dismissed rape and kidnapping charges against defendant Michael Lindsay after the court found the victim in contempt and jailed her for five days for refusing to testify. (See the October, 2003 *Cincinnati Enquirer* story, "Judge releases jailed woman; She claimed rape but didn't show up to testify in court." http://www.enquirer.com/editions/2003/10/01/loc_outofjail01.html.)

Autonomy and the ability to make her own choices may be of utmost importance to a rape victim during her recovery. Advocates working with victims who have not yet decided whether to report an assault to law enforcement should be informed of the possible loss of control over the criminal process. Specifically, a victim must be informed that she may be compelled by court order to testify if a prosecution goes forward.



Are there any policies in your jurisdiction governing what happens if a victim who has reported sexual assault to police decides she does not want to participate in the criminal prosecution? Do the policies in your jurisdiction mean that a reporting victim who subsequently does not want to proceed in the criminal process is compelled to do so?

VICTIM COUNSEL AND REMEDY

A victim who is arrested and charged with criminal contempt has a right to court appointed criminal defense counsel, if she cannot afford an attorney.

V. ARRAIGNMENT

Arraignment is the stage where the defendant appears for formal charging after a grand jury or preliminary hearing results in an indictment. It is a formal presentation of charges against the defendant and it is at this time that the defendant enters a preliminary plea of "guilty" or "not guilty." Issues related to the defendant's release status may arise at arraignment. (See "Initial Appearance of the Defendant," Section II, above.)

- Does the victim have a right to notice of the arraignment?
- Does the victim have a right to attend the arraignment?
- Does the victim have the right to speak about release issues?

A victim's rights to notice and to attend court hearings (sometimes described as a right to be present) are typically found in state constitutions, statute or court rules. Remember that a generalized right to be present must be interpreted to ascertain whether it includes a right to notice of and attendance at arraignment. For example, some states allow a victim to attend any procedure "which the defendant has the right to attend," while other states allow a victim to attend all court proceedings.

VICTIM COUNSEL AND REMEDY

There is little for victim's counsel to do at an arraignment unless it spontaneously turns into a release hearing or an entry of a plea hearing. Try to contact the prosecutor's office to determine whether the defendant's release or plea are likely to be at issue.

VI. DISCOVERY/PRETRIAL MOTIONS

A. Introduction

There are many laws governing discovery in sexual assault cases — so many that each record or item sought or area to be searched may be subject to a different legal analysis. Discovery laws vary among jurisdictions. However, criminal procedures exist to prevent access to information. For example, a victim has a due process right to bring her own objection, typically a motion to quash and/or motion to dismiss a discovery subpoena. A survivor should take the position that she has the ability to appear in the case as a party to challenge the legality of the subpoena, unless case law or a statute provide expressly and clearly to the contrary. The emerging view among victim lawyers is that it is a victim's due process right to contest a subpoena.

Some of the more common items subpoenaed or that are the subjects of court orders to examine include:

- Confidential Records: These include records of every sort, including victim advocate records, crisis counseling records, pre-assault counseling records, medical records, school records, employment records. For many or all of these records, there may be confidentiality laws that prevent their disclosure. These confidentiality laws range from evidentiary privileges in the case of therapy record or crisis counseling records, to statutory declarations of confidentiality. State or federal funders, including funding through the Victims of Crime Act (VOCA) or the Violence Against Women Act (VAWA), often require victim confidentiality.
- Search of Survivor: Additional discovery that is sometimes sought, but rarely granted, is a search of the survivor herself. These requests are usually cast by the defendant as required by due process.
- Search of Crime Scene: Sometimes the defendant wants to view the crime scene, which can include the survivor's house or car.

For each of these categories of discoverable items, a compilation of state law governing discovery or disclosure will help a victim to decide when to fight discovery orders or requests. A summary of state law may also underscore for her the lack of confidentiality that may exist. This understanding may affect her choices. For example, if rape crisis counseling records are subject to *in camera* review and possible disclosure to the defense, a victim should be so advised so that she may make an informed choice whether to seek counseling before the trial is over. The survivor should decide whether the benefit of seeking counseling is outweighed by the potential discovery of therapy records concerning the assault.

VICTIM COUNSEL AND REMEDY

Typically all efforts for pretrial access to the victim's person, interviews of the victim or victim's records, or third party records concerning the victim, are actions in which the victim may be represented by counsel. Remedies include reconsideration of orders denying a motion to quash a subpoena and writ review of a trial court's failure to comply with confidentiality laws. *See* "Review and Appeals," Section IX.

B. Interview of Crime Victim

At common law, the defense did not have the right to interview the victim, or any witness for that matter, pretrial. There is also no constitutional requirement for such an interview. Some jurisdictions override the common law and permit such an interview by statute. The trend in victims' rights is to eliminate this statutory discovery.

- Determine whether your state has a statute that allows a defendant a pretrial interview. *Note:* A defendant does have the constitutional right to *ask* the victim if she will submit to the interview. Some jurisdictions require the defense to ask this through the prosecutor.
- If an interview is not authorized by statute, how is the victim informed that she does not have to submit to an interview?
- Does the right to refuse an interview extend to anyone else (*i.e.*, the parent/guardian of a minor victim)?

If the victim refuses to cooperate with the prosecution's request for interview, the prosecutor may use a subpoena to summon the witness to a grand jury or pretrial hearing and interview the victim on the witness stand. Written law may be silent on this issue, in which case the victim's common law right to refuse an interview remains intact.

C. Rape Shield Laws and Procedures

Rape shield laws are laws that prevent evidence of a victim's prior sexual conduct from being admitted into evidence during a criminal prosecution for sexual assault. Determining whether a rape shield law applies and to what extent it applies is one of the most important pretrial events. Unfortunately, many rape shield laws are weak and flawed.

The federal rape shield law is an example of an excellent rape shield law, Federal Rule of Evidence 412 (Rule 412). Under Rule 412, evidence which refers to the victim's sexual history or predispositions is inadmissible unless one of three stated exceptions is met. Fed. R. Evid. 412(a)(1)-(2); *U.S. v. Johns*, 15 F.3d 740, 744 (8th Cir. 1994); *U.S. v. Neze*, 661 F.2d 1203, 1205 (10th Cir. 1981). The trial court has wide discretion under Rule 412 to determine the admissibility of any evidence. In making its decision, the trial court may take into account the prevention of disclosing embarrassing and intimate details regarding the alleged victim's past sexual activities or reputation. *U.S. v. Cardinal*, 782 F.2d 34, 36 (6th Cir. 1986).

Rule 412 applies whenever a defendant seeks admission of the alleged victim's sexual behavior, history or reputation. Additionally, Rule 412 applies to *any* criminal or civil proceeding and its use is not exclusively limited to rape cases.⁸

Rule 412 was enacted by Congress in 1978 to safeguard the alleged victim against the invasion of privacy, potential embarrassment and sexual stereotyping that is associated with public disclosure of intimate sexual details. It also prevents the infusion of sexual innuendo into the fact finding process and encourages victims to come forward and participate in proceedings against their offenders. Advisory Committee Note adopted by Congressional Conference Report accompanying Pub.L. 103-322 (See H.R. Conf. Rep. No. 103-711, 103rd Cong., 2nd Sess., 383 (1994)).

The following excerpt addresses enforceability of rape shield laws by victims. *See* Douglas E. Beloof, *Enabling Rape Shield Procedures Under Victims' State Constitutional Privacy Rights*, 38 Suffolk L. Rev. 291 (2005):

In *Doe v. United States*, 666 F.2d 43, 45 (4th Cir. 1981), the court granted an interlocutory appeal to a rape victim from a District Court's pre-trial denial of the protections of the federal rape shield law. In *Doe*, the defendant asserted that the court did not have jurisdiction to appeal. First, the court observed that "[t]he text, purpose, and legislative history of [the rape shield law] clearly indicate that Congress enacted the rule for the special benefit of the victims of rape." The court observed that the rule made no reference to appeal. Regardless, the Circuit held that the remedy was "implicit as a necessary corollary of the [rape shield] rule's explicit protection of the privacy interests Congress sought to safeguard."

⁸ Fed. R. Evid. 412(a) (emphasis added); *Wolak v. Spucci*, 217 F.3d 157, 160 (2nd Cir. 2000) (holding that Rule 412 covers the admission of evidence in sexual harassment lawsuits).

The court found significant the fact that “[n]o other party in the evidentiary proceeding shares these interests to the extent that they might be viewed as a champion of victim’s rights.” The court found that the congressional intent will be “frustrated” if rape victims “are not allowed to appeal an erroneous evidentiary ruling.”

The Fourth Circuit then turned to the law governing review of final decisions from trial courts, a prerequisite to appeal. The Court reviewed United States Supreme Court precedent holding that the requirement of finality in the statute be “given a practical rather than a technical constitution.” Furthermore, the Supreme Court instructed that the important considerations for determining finality are “the inconvenience and costs of piecemeal review on the one hand and the danger of denying justice by delay on the other.” The Fourth Circuit balanced the factors noting that the “inconvenience and costs associated with permitting the victim to appeal are minimal . . . [and] no greater than those resulting from government appeals of suppression orders.” Furthermore, “[b]ecause the (rape shield) rule provides for pre-trial evidentiary hearings, appeals are unlikely to involve significant postponements of criminal trials.” The court noted that in the instant case the appeal was heard with no delay of the criminal trial. The court observed that on the other side of the balance was the manifest “injustice to rape victims in delaying an appeal” until final judgment. Absent immediate appeal, “victims aggrieved by the court’s order will have no opportunity to protect their privacy from invasions forbidden by the [rape shield] rule.” The court observed that appeal following judgment “is no remedy, for the harm that the rule seeks to prevent already will have occurred.” Having concluded that appeal was in keeping with Congressional intent to safeguard rape victims privacy interests, that no other party could “champion . . . the victim’s rights” and that the test of practical finality was met, the court granted the victim standing to bring an interlocutory appeal.

Presently, only two states and the federal government expressly provide for the victim’s attorney to participate in the trial level rape shield hearing. The absence of such trial level participation provisions may make interlocutory review problematic.

For the victim’s ability to bring an interlocutory appeal from the denial of rape shield, *see* “Review and Appeals,” Section IX, below. *See also*, “NCVLI Chart on Interlocutory Appeals of Rape Shield Rulings,” in Appendix A.

D. Privilege Laws

Privilege laws protect the confidentiality of communications between two individuals. Most states recognize priest-penitent, psychologist-patient, physician-patient, and attorney-client privileges, among others. Privileges are almost always found in the statutes or rules

that set forth the Rules of Evidence or court rules. It is a simple matter to find derivative case law once the relevant statute is identified.

You will want to make a complete collection of any privileges in your state relating to counseling. Of particular relevance to sexual assault victims are rape crisis counselor and advocate privileges.

- Does your state have a rape crisis counselor privilege? *See* Appendix E, “NCVLI Chart of Sexual Assault Counselor Privileges.”
- Is the privilege as written absolute or qualified?
- Has case law upheld or weakened the privilege?
- If no rape crisis counselor privilege exists in your state, does your state have a broader privilege that may apply (*e.g.*, social worker privilege, psychotherapist privilege, etc.)?

E. Name, Image, and Address Out of Public Record

Many states have statutes protecting the victim’s privacy in certain documents. Examples of these statutes appear on pp. 25-27, *supra*. In the absence of a statute, court rule or case law, a court may, in its inherent authority, entertain a motion to prohibit release of this information to protect the privacy of the victim.

- Does your state have laws, rules or policies protecting the victim’s privacy in identification, residence, etc.? These are generally found in statutes or court rules or sometimes in the Rules of Civil Procedure.

F. Sealing Records During or After a Case

Rules of civil procedure may allow a court to seal parts of the record during and after a case. In the absence of a statute, court rule or case law may provide that a court may, in its inherent authority, entertain a motion to seal the records to protect the privacy of the victim.

- Does your jurisdiction have statutes or court rules or case law governing the sealing of records? What are the requirements? When must the request be submitted, to whom must it be submitted and who may submit it (Victim? Prosecutor? Either?)?

G. Subpoenas or Motions Requesting Victim's Records

In the sexual violence arena there are often significant violations of victims' confidentiality rights. Items may be subpoenaed from third party record holders without the victim's knowledge.

The victim, as well as the third party record holder, should, as a matter of due process, be advised of the subpoena and be given an opportunity to challenge it. Typically challenges to subpoenas are framed as motions to quash. An already existing court order is typically challenged by a motion to reconsider the order. A motion to dismiss may also be filed with the court. Victims typically have standing to object to such subpoenas or orders. The law governing the outcome is usually found in whatever state statutes control the specific records sought to be obtained in the particular case.

- What are the motion to quash and reconsideration requirements and procedures in your state procedures? Motions to quash and reconsider might be found in either the civil or criminal rules of procedure or court rules.

H. Additional Privacy Issues

A number of other issues that deal with protecting a victim's privacy pretrial may arise, including HIPAA, FOIAs, campus and media privacy, and social security and identity change issues. These items are discussed in NCVLI's companion guide, *Rights and Remedies: Meeting the Civil Legal Needs of Sexual Violence Survivors*.

VII. PLEA BARGAINS

Generally, a victim has the right to object to a plea bargain in open court at the entry of plea hearing. This right is established either through a right expressly granting victims the right to speak at plea hearings or through statutes giving victims the right to speak at sentencing. The right to speak at sentencing includes the right to speak at plea hearings because pleas involve sentencing. *See People v. Stringham*, 206 Cal. Rptr. 445 (Cal. App. 1988) (while this is a California case, its logic appears relatively irrefutable). Unless expressly prohibited, a victim may have her own legal counsel represent her at these hearings.

When analyzing a sexual assault survivor's rights with respect to plea bargains, consider the following:

- Is there a statute giving the defense the right to interview witnesses?
 - If not, the victim may lawfully refuse an interview.

- If so, the victim undoubtedly has the right to have her own counsel appear. The district attorney also may attend.
- Do victims have the right to confer with the district attorney concerning plea or sentence?
 - Again, the victim's counsel may likely attend this conference.

VICTIM COUNSEL AND REMEDY

The remedy for failure to comply with the victim's right to attend and speak at the plea hearing is to seek writ review to void the conviction and sentence. *See Douglas E Beloof, The Third Wave of Crime Victims' Right: Standing, Remedy and Review*, 2005 BYU L. Rev. 255 (2005). *See* "Review and Appeals," Section IX below.

VIII. RIGHTS AT TRIAL

In your state, determine whether a victim has the following rights by state constitutional Victim Rights Amendment, statute or other authority:

- Does the victim have the right to **prompt disposition** or **speedy trial**?
- Does the victim have the right to **notice** of the trial?
- Does the victim have the right to have her **schedule considered** when trial dates are set?
- Does the victim have the right to **attend** or be **present** at trial?
 - Is this an absolute right, or is the statute conditional, or does it give the court or parties discretion to exclude the victim?
 - Is it clear whether the rule of evidence concerning sequestration of witnesses is subservient to the victim's right to attend trial? (*Note: If the victim has an absolute state constitutional right to attend, the victim's constitutional right prevails over an evidentiary rule of sequestration.*)

The rights listed above are general victims' rights, which may exist in constitutions, statutes, or court rules.

VICTIM COUNSEL AND REMEDY

Excluding a victim from trial in violation of her right to be present should result in a writ action to compel the court to allow the victim's attendance. *See* "Review and Appeals," Section IX.

- Is there a statute authorizing a **support person** to sit with the victim at trial?
 - If not, a support person should be able to accompany the victim anyway unless the support person is a witness subject to sequestration rules.
 - Jurisdictions vary as to whether a child may testify while sitting on someone's lap.
- Is the victim entitled to an interpreter if she attends the trial or other court proceedings? The Americans with Disabilities Act requires that an interpreter for the hearing impaired be provided to anybody in need of this service. This would include a victim who would like to attend court hearings but is not testifying.
- Is there an alternative means of testifying available? This is usually applicable to child victims and such accommodations will be set forth in state statutes or rules of evidence.
 - What is the proper role of support persons in your jurisdiction?
 - May the child testify by closed circuit TV or other remote access?
 - Are there statutes setting forth the appropriate procedures?
- Will the court grant a victim's request to **close the courtroom** for hearings at which a victim's sensitive, private or highly personal information will be disclosed?

Statutes, court rules, and constitutional limitations found in United States or state supreme court opinions govern procedures for closing the courtroom. However, judges have a wide range of discretion to make decisions affecting the decorum of the courtroom. A victim can always ask the judge to use his/her discretion to close the courtroom for sensitive hearings.

IX. SENTENCING

A. Rights at Sentencing

At the conclusion of the trial the defendant is sentenced. The sentence imposed on the defendant, and the manner in which it is imposed, directly implicate the rights of the victim. The survivor and her attorney will want to know the protocols and procedures that govern the victim with regards to sentencing. The right to confer with the prosecutor concerning sentencing, and the right to notice of and to attend sentencing hearings, are general victims' rights found in constitutions, statutes, or court rules.

- Do victims in your jurisdiction have the right to: give an **impact statement**?
- If yes, does this include the right to make a **sentencing recommendation**?
- Is a victim subject to cross-examination during sentencing?

The victim's right to give an impact statement at sentencing is perhaps the most universal crime victim right. Procedures vary from jurisdiction to jurisdiction. In most jurisdictions, victims have an independent right to directly address the court. Some jurisdictions provide for a victim statement in the pre-sentence report. Some allow both.

Unless expressly barred, an attorney may represent the victim at the sentencing hearing. For a recent collection of state laws, see Douglas E. Beloof, *Constitutional Implications of Crime Victims as Participants*, 88 Cornell L. Rev. 282, Appendix (2003). Most jurisdictions also allow the victim to express a sentencing recommendation in non-capital cases. *Id.*

VICTIM COUNSEL AND REMEDY

The victim's right to speak at sentencing implicitly includes the right to have counsel present and to advocate for the victim. Remedy for failure to provide the victim this right (unless this remedy is expressly prohibited by state constitutional or statutory law) is to void the sentence and seek a re-sentencing. See, Douglas E. Beloof, *The Third Wave of Crime Victims = Right: Standing Remedy and Review*, 2005 BYU L. Rev. 255 (2005).

Shift in Law: The United States Supreme Court's recent opinion in *Blakeley v. Washington*, 542 U.S. 296 (2004), may have put into question the legitimacy of sentencing guideline schemes. In essence, *Blakeley* holds that sentencing enhancements that are factual in nature must be reviewed by a jury, rather than a judge. The broadest exception to this rule appears to be prior judgments of conviction that may be used to enhance sentences without a jury review of the veracity of the conviction. Review your state's recent court opinions to determine whether and how much your sentencing laws have changed as a result of *Blakeley*.

District attorney or attorney general offices may have already done the legal work on this issue. It is also probable that statutory changes will come about as a result of *Blakeley*.

B. Restitution

1. What is Restitution?

Restitution is an important part of sentencing for the sexual assault survivor. It is distinct from crime victims' compensation. Courts may order restitution as part of a sentence in order to compensate the victim for various types of loss. Restitution laws vary greatly among jurisdictions. The trend is to make restitution mandatory and to include more categories of loss in restitution. It is uncontroversial that restitution for medical expenses, counseling costs, and damaged property are recoverable under most restitution laws. It is less predictable that damages (in tort terms), such as unliquidated or general damages like pain and suffering and emotional distress are permissible.

- What damages are recoverable in restitution in your jurisdiction?
- What damages are not recoverable?
- Is restitution recoverable in a juvenile court proceeding?



For an overview of compensation and restitution, and links to every state's contact information, visit: <http://www.aardvarc.org/victim/restitution.html>.

2. Procedure for Seeking Restitution

- How does the victim get notice and information regarding submitting a restitution claim?
- May the victim or her lawyer present evidence as to restitution? The right to address the court at sentencing or the restitution statute itself may allow the victim or her lawyer to offer proof of restitution at the sentencing hearing. Typically, however, this is done by the prosecutor on a victim's behalf.

3. Enforcement of Restitution Orders

In many jurisdictions, a criminal restitution order can readily be turned into a civil judgment by the victim, or the Attorney General can assign the restitution order to the victim. In some states, restitution orders are criminal; in others they are civil in nature. The civil or criminal nature of restitution often has a bearing on the statutory procedure for getting the victim a civil judgment that she can enforce.

X. REVIEW AND APPEALS

A. Express Review Mechanisms

Some states expressly provide review mechanisms for a violation of a victim's rights. An effective means of securing appellate review, assuming the constitution does not preclude it, is to expressly provide for a means of review within the constitution or enabling statute. However, only two state constitutions explicitly provide for actions to compel government officials to obey victims' rights:

- South Carolina provides that enforcement of victims' rights is by mandamus. S.C. Const. Art. I § 24(B).
- Nevada provides that an action to compel the government to comply with the right is available. Nev. Const. Art. § 8(4).

Four other states provide an enforcement mechanism via state statute, rather than through the state constitution:

- Utah law specifically provides that a victim may use mandamus to enforce her rights. Utah Code Ann. § 77-38-11(1)-(2)(i) (1999). See *State v. Casey*, 44 P.3d 756, 766, n. 14 (Utah 2002). Utah statutes also provide for declaratory judgment actions, mandamus and appeal. Utah Code Ann. § 77-38-11(2)(a)(i).
- Arizona has abolished the old form of writs and in their place created "special actions," which crime victims may bring to enforce their rights. Ariz. Rev. Stat. § 13-4437 (2004).
- Maryland has the right to appeal from an interlocutory or final order that denies or fails to consider a victim's right. Md. Crim. Proc. Code Ann. § 11-103(b).
- Michigan statutes allow a victim to appeal to a circuit court judge the parole board's granting of parole. Mich. Comp. Laws § 791.234(9).

Finally, three states grant victims "standing" to enforce crime victim rights:

- The Texas constitution implicitly provides for some sort of review procedure by granting victims "standing to enforce the rights[.]" Tex. Const. Art. 1 § 30(e).
- The Florida and Indiana statutes grant victims "standing." Fla. St. §

960.001(7) (“The victim of a crime ha[s] standing to assert the rights of a crime victim which are provided by law”); Ind. Stat. 35-40-2-1(1) (“A victim has standing to assert the rights established by this article.”).

B. Writs

The judicial branch of government is charged with interpreting constitutional rights. In jurisdictions where there is no express provision for or against review, writs are available to crime victims as an enforcement mechanism. The writ remedy is the issuance of a writ, accompanied by a command to prosecutors or judges, to comply with the law.

It is unnecessary for constitutional provisions or statutes to expressly provide victims with review by writ in order for such writs to be available to victims. Absent other restrictions in victims’ state constitutional rights, writs are implicitly available. Even in states which have expressly banned appeals, writs are available.

Neither full party status or standing to appeal is required for a victim to obtain review by writ. *See, e.g., United States v. McVeigh*, 106 F.3d 325 (10th Cir. 1997). The problem in the review of victims’ rights, however, is not the unavailability of writ review, but rather the discretionary nature of writs.

There are four kinds of writs available to a victim to enforce her rights: writs of certiorari, writs of mandamus, writs of prohibition, and writs of supervisory (or superintending) review.

1. Writs of Certiorari

A writ of certiorari is an order issued by an appellate court when the court has discretion to take an appeal. Certiorari is available where other means of review are not. Appellate courts retain their inherent authority to consider petitions for, and issue writs of, certiorari directing lower courts to obey the law. For example, writs of certiorari have been sought where:

- The trial court sentenced the defendants pursuant to a plea agreement even though the victims were not notified of the hearing as is required under the Florida constitution. *See Ford v. State*, 829 So.2d 946 (Fla. App.4th Dist. 2002).
- The trial court erroneously denied victims’ claims to share in a restitution fund. *See State v. West*, 320 N.W.2d 570 (Iowa 1982).

2. Writs of Mandamus

A writ of mandamus is an order issued by a court, in extreme necessity, to command

a public official to perform some public duty required by statute. For example, writs of mandamus have been issued where:

- A victim was not given notice or an opportunity to be heard at a hearing where a California trial court vacated a previously entered order of restitution. *Melissa J. v. Super. Ct. (Thompson)*, 190 Cal. Rptr. 476 (Cal. App. 1987).
- The petitioner sought to be classified as a “victim” under federal law. *Saum v. Windall*, 912 F.Supp. 1384, 1397 (D. Colo. 1996) (peremptory writ issued because crime victim status [under Victims Rights and Restitution Act] is reviewable, states a valid claim and is not subject to dismissal”).
- A victim challenged an Oregon trial court’s jurisdiction to order defendant’s counsel into the victim’s home. *State ex rel. Beach v. Norblad*, 781 P.2d 349, 350, (Or. 1989) (peremptory writ issued as court had no jurisdiction over victim so as to order widow to allow search of home in which husband was murdered).
- A Texas trial court had ordered a psychological evaluation of a child sexual assault victim by defendant’s expert. *State ex. rel. Holmes v. Lanford*, 764 S.W.2d 593, 594 (Tex. App. 1989) (writ issued because neither the prosecution nor the court had “authority to force a complaining witness to submit to such an invasion of her right to privacy”).

3. Writs of Prohibition

Writs of prohibition prevent trial courts and, when they are acting in a quasi judicial capacity, prosecutors from acting without jurisdiction. Writs of prohibition have been sought:

- By a victim to prevent the public prosecutor from interfering with the victim’s access to a state grand jury. *State ex rel. Miller v. Smith*, 285 S.E.2d 500 (W.Va. 1981).
- By a victim to prevent the court from excluding the victim from the courtroom where the court sought to close the courtroom to the press and public. *State ex rel. Pulitzer, Inc. v. Astry*, 19 S.W.3d 710 (Mo. App. 2000).
- To overturn an order requiring a child victim to be interviewed by defense counsel outside the presence of the victim’s attorney. *Burdette v. Lobban*, 323 S.E.2d 601, 603, (W.Va. 1984).

4. Writs of Supervisory Review

Supervisory writs, otherwise known as *interlocutory appeals*, are appeals to a higher court before final judgment in a case is rendered. These may be available from the denial of rape shield protections. See “Rape Shield Laws and Procedures,” page 37, for an explanation of this method of review. Simply put, an interlocutory order is, “one made during the pendency of the action, which does not dispose of the case, but leaves it for further action by the trial court to settle and determine the entire controversy.” *Bishop v. Lattimore*, 530 S.E.2d 554, 558 (N.C. App. 2000).

VICTIM COUNSEL AND REMEDY

Appeals and writs are complicated enough to command an attorney to represent for the victim. A victim will have to seek a *pro bono* attorney or retain legal counsel to pursue these avenues of enforcement. The remedy available pursuant to a writ typically is to void the order or proceedings below and order compliance with victims’ rights or confidentiality protections. The attorney for the victim should specify the relief sought.

C. Appeals

Most appeals are brought by the defendant from a judgment of conviction. Typically, a defendant cannot appeal before the judgment is entered. Occasionally, the state appeals a sentence under its statutory authority to do so. A victim may file, with the court’s permission, independent amicus briefs on any point relevant in the appeal. Only two states, Utah and Maryland, expressly allow a victim to appeal a violation of her rights.

Typically, a notice of appeal must be filed within a defined number of days of the entry of judgment of conviction. Some jurisdictions require a victim to be notified of one or more of the following: when an appeal is taken; when it is to be argued; and when an opinion is issued.

- Does a victim have the right to notice of either parties’ notice of appeal?
- Does a victim have the right to receive notice of an appellate argument or opinion?

XI. PROBATION/PAROLE

A victim may have the general right to notice of and to participate in probation or parole hearings. Additionally, a victim often has the right to notice of release or escape from custody. The VINE (Victim Identification and Notification Everyday) system also helps victims stay apprised of defendant’s location and release status.

- Does the victim have the right to notice of the perpetrator's probation or parole hearings and release from custody?
- Does the victim have to expressly assert her right to notice? If so, by what procedure?
- Who is responsible for providing notice to the victim?
- Is there an automated phone number, such as the VINE system, for the state to notify the victim automatically and also for the victim to call to get information about the prisoner's status?
- Does the victim have the right to speak at parole or probation hearings?
Note: even absent an express right a court may, in its discretion, receive information from others. Is there case law on this last point in your jurisdiction?
- Does the victim have a broader right, such as the right to protection, which can be relied upon to argue that she should get notice of defendant's probation, parole, escape, and/or release?



These rights are usually constitutional or statutory. The Parole Board or corrections department in your state may have promulgated administrative rules governing this.

VICTIM COUNSEL AND REMEDY

Attorneys should be able to appear with the victim if the victim has a right to be heard at the parole hearing. If the victim is not notified of, for example, an early release decision, the remedy should be to go to court to void the parole board's action and redo the proceeding, allowing the victim to exercise her right. *See State ex. rel. Hance v. Board of Pardons & Parole*, 875 P.2d 824 (Ariz. Ct. App. 1993) (an attorney for the victim could appropriately seek this remedy).

APPENDIX

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Appendix A

NCVLI Chart on Interlocutory Appeals of Rape Shield Rulings

INTERLOCUTORY APPEALS OF RAPE SHEILD RULINGS

	Suppression of evidence	Suppression of confession or admission	Quashing warrant, search warrant, or indictment	Prevent irreparable injury	Severity of potential injury	Probability that review upon entry of final judgment will be ineffective	Need to prevent needless, expensive, and protracted litigation	The probability of reversal	Order preventing getting evidence
AL A.R.A.P. Rule 5							X		
AK									
AZ A.R.S. §12-2101						X			
AR Ark. Code Ann. §16-91-122									
CA CA CIV PRO § 906 CAL ST RAP Rule 5							X		
CO CO ST §16-12-102 C.A.R. Rule 4.1	(State) X	(State) X	(State) X						

	Suppression of evidence	Suppression of confession or admission	Quashing warrant, search warrant, or indictment	Prevent irreparable injury	Severity of potential injury	Probability that review upon entry of final judgment will be ineffective	Need to prevent needless, expensive, and protracted litigation	The probability of reversal	Order preventing getting evidence
CT									
DE DE R S CT Rule 42				X					
FL F.S.A. §924.071	X		X						
GA GA R A CT Rule 30									
HI HRS §641-13	(State) X	(State) X	(State) X						
ID I.A.R. Rule 11	X		X						
IL ILCS S. Ct. Rule 308									

	Suppression of evidence	Suppression of confession or admission	Quashing warrant, search warrant, or indictment	Prevent irreparable injury	Severity of potential injury	Probability that review upon entry of final judgment will be ineffective	Need to prevent needless, expensive, and protracted litigation	The probability of reversal	Order preventing getting evidence
IN IN ST RAP Rule 14				(Substantial, expense, damage, or injury.) X		X			
IA IA Rule 6.2									
KS Kan. Stat. Ann. §22-3603	(State) X	(State) X	(State) X						
KY KY ST RCP Rule 76.33				X					
LA LA C.Gr.P. Art. 912			(State) (Criminal) X	(Civil) X					
ME ME ST T. 15 §2115-A	(State) X	(State) X	(State) X						

	Suppression of evidence	Suppression of confession or admission	Quashing warrant, search warrant, or indictment	Prevent irreparable injury	Severity of potential injury	Probability that review upon entry of final judgment will be ineffective	Need to prevent needless, expensive, and protracted litigation	The probability of reversal	Order preventing getting evidence
MD MD CTS & JUD PRO §12-302	(State) X		(State) X						
MA Mass. Gen. Laws ch. 278 §28E	(State) X		(State) X						
MI MCR 7.205				X (Substantial)					
MN MN ST CIV A P Rule 103.03 & 103.04						X			
MS MS ST §99-35-103, M.R.A.P. 5			(State) X	X					
MO V.A.M.S. 547.200	(State) X	(State) X	(State) X						

	Suppression of evidence	Suppression of confession or admission	Quashing warrant, search warrant, or indictment	Prevent irreparable injury	Severity of potential injury	Probability that review upon entry of final judgment will be ineffective	Need to prevent needless, expensive, and protracted litigation	The probability of reversal	Order preventing getting evidence
MT MCA 46-20-103	(State) X	(State) X	(State) X						
NE Neb. Rev. Stat. §§25-1902									
NV NV ST §177.015	X								
NH N.H. Rev. Stat. §606:10, NH R S CT Rule 8	(State) X	(State) X	(State) X	X	X				(State) X
NJ N.J.S.A. 2A:84A- 21.6, NJ R A R. 2:2-4			X						
NM NM ST §39-3-4									
NY NY CPLR §5701						X			

	Suppression of evidence	Suppression of confession or admission	Quashing warrant, search warrant, or indictment	Prevent irreparable injury	Severity of potential injury	Probability that review upon entry of final judgment will be ineffective	Need to prevent needless, expensive, and protracted litigation	The probability of reversal	Order preventing getting evidence
NC N.C.G.S.A. §1-277, §15A-979	(State) X					X			
ND ND ST 29-28-06 ND ST 29-28-07	(State) X	(State) X	(State) X						
OH OH ST RCRP Rule 12	X								
OK 12 Okl. St. Ann. §952									
OR Or. Rev. Stat. §138.060	(State) X		(State) X						
PA 42 Pa. Cons. Stat. §702									
RI									

	Suppression of evidence	Suppression of confession or admission	Quashing warrant, search warrant, or indictment	Prevent irreparable injury	Severity of potential injury	Probability that review upon entry of final judgment will be ineffective	Need to prevent needless, expensive, and protracted litigation	The probability of reversal	Order preventing getting evidence
SC SC ST §14-3-330			X						
SD SD ST §15-26A-3						X			
TN Ten. Rule of App. Proc. 9				X	X	X	X	X	
TX V.T.C.A. Civ. Prac. & Rem Code §51.014									
UT UT R RAP Rule 5									
VT Vt. Stat. Ann. 13 §7403	(State) X	(State) X	(State) X						

	Suppression of evidence	Suppression of confession or admission	Quashing warrant, search warrant, or indictment	Prevent irreparable injury	Severity of potential injury	Probability that review upon entry of final judgment will be ineffective	Need to prevent needless, expensive, and protracted litigation	The probability of reversal	Order preventing getting evidence
VA Va. Code Ann. §8.01-670.1									
WA WA R RAP 2.2, 2.3, & 2.4	(State) X								
WV									
WI W.S.A. 808.03				X	X				
WY W.R.A.P. Rule 13.02	X	X							

	Need to develop uniform body of law	Substantial ground for difference of opinion	Materially advance end of case	Necessary for correct administration of justice	Restoration of things seized	No clear, controlling precedent	Court and parties agree that in parties best interest to seek IA	Affects substantial rights	Cause substantial error at trial
AL <i>A.R.A.P.</i> <i>Rule 5</i>		X	X						
AK									
AZ <i>A.R.S.</i> <i>§12-2101</i>								X	
AK <i>Ark. Code Ann.</i> <i>§16-91-122</i>				(State) X					
CA <i>CA CIV</i> <i>PRO §906</i> <i>CAL ST</i> <i>RAP Rule 5</i>		X	X					X	
CO <i>CO ST</i> <i>§16-12-102</i> <i>C.A.R.</i> <i>Rule 4.1</i>					(State) X				

	Need to develop uniform body of law	Substantial ground for difference of opinion	Materially advance end of case	Necessary for correct administration of justice	Restoration of things seized	No clear, controlling precedent	Court and parties agree that in parties best interest to seek IA	Affects substantial rights	Cause substantial error at trial
CT									
DE <i>DE R S CT</i> <i>Rule 42</i>			X	X					
FL <i>F.S.A.</i> <i>§924.071</i>									
GA <i>G A R A CT</i> <i>Rule 30</i>	X		X						X
HI <i>HRS</i> <i>§641-13</i>		X							
ID <i>I.A.R.</i> <i>Rule 11</i>								X	

	Need to develop uniform body of law	Substantial ground for difference of opinion	Materially advance end of case	Necessary for correct administration of justice	Restoration of things seized	No clear, controlling precedent	Court and parties agree that in parties best interest to seek IA	Affects substantial rights	Cause substantial error at trial
IL <i>ILCS S. Ct.</i> <i>Rule 308</i>		X	X						
IN <i>IN ST RAP</i> <i>Rule 14</i>			X	X					
IA <i>IA Rule 6.2</i>				X				X	
KS <i>Kan. Stat.</i> <i>Ann.</i> <i>§22-3603</i>									
KY <i>KY ST RCP</i> <i>Rule 76.33</i>									
LA <i>LA C.Cr.P.</i> <i>Art. 912</i>									

	Need to develop uniform body of law	Substantial ground for difference of opinion	Materially advance end of case	Necessary for correct administration of justice	Restoration of things seized	No clear, controlling precedent	Court and parties agree that in parties best interest to seek IA	Affects substantial rights	Cause substantial error at trial
ME <i>ME ST T.</i> <i>15 §2115-A</i> liberally constructed									X
MD <i>MD CTS &</i> <i>JUD PRO</i> <i>§12-302</i>					(State) X				
MA <i>Mass. Gen.</i> <i>Laws</i> <i>ch. 278</i> <i>§28E</i>									
MI <i>MCR</i> <i>7.205</i>									
MN <i>MN ST CIV</i> <i>AP Rule</i> <i>103.03 &</i> <i>103.04</i>				X				X	

	Need to develop uniform body of law	Substantial ground for difference of opinion	Materially advance end of case	Necessary for correct administration of justice	Restoration of things seized	No clear, controlling precedent	Court and parties agree that in parties best interest to seek IA	Affects substantial rights	Cause substantial error at trial
MS <i>MS ST</i> §99-35-103, <i>M.R.A.P. 5</i>			X	X					
MO <i>V.A.M.S.</i> 547.200									
MT <i>MCA</i> 46-20-103								(Defendant) X	
NE <i>Neb. Rev. Stat.</i> §§25-1902								X	
NE <i>NV ST</i> §177.015									
NH <i>N.H. Rev. Stat. §606:10</i> <i>NH R S CT</i> <i>Rule 8</i>			X	X					

	Need to develop uniform body of law	Substantial ground for difference of opinion	Materially advance end of case	Necessary for correct administration of justice	Restoration of things seized	No clear, controlling precedent	Court and parties agree that in parties best interest to seek IA	Affects substantial rights	Cause substantial error at trial
NJ <i>N.J.S.A. 2A:84A-21.6,</i> <i>NJ R.A.R. 2:2-4</i>				X					
NM <i>NM ST §39-3-4</i>		X	X						
NY <i>NY CPLR §5701</i>								X (Interpreted broadly)	
NC <i>N.C.G.S.A. §1-277</i>			X					X	
ND <i>ND ST 29-28-06ND ST 29-28-07</i>				(State) X	(State) X			(Defendant) (State) X	
OH <i>OH ST RCRP Rule 12</i>									

	Need to develop uniform body of law	Substantial ground for difference of opinion	Materially advance end of case	Necessary for correct administration of justice	Restoration of things seized	No clear, controlling precedent	Court and parties agree that in parties best interest to seek IA	Affects substantial rights	Cause substantial error at trial
OK <i>12 Okl. St. Ann. §952</i>			X					X	
OR <i>Or. Rev. Stat. §138.060</i>				(State) X					
PA <i>42 Pa. Cons. Stat. §702 PA STRAP Rule 311</i>		X	X						(State) X (Terminate or substantially handicap prosecution)
RI									
SC <i>SC ST §14-3-330</i>								X	
SD <i>SD ST §15-26A-3</i>				X				X	

	Need to develop uniform body of law	Substantial ground for difference of opinion	Materially advance end of case	Necessary for correct administration of justice	Restoration of things seized	No clear, controlling precedent	Court and parties agree that in parties best interest to seek IA	Affects substantial rights	Cause substantial error at trial
TN <i>Ten. Rule of App. Proc. 9</i>	X								
TX <i>V.T.C.A. Civ. Prac. & Rem Code §51.014</i>		X	X				X		
UT <i>UT R RAP Rule 5</i>			X	X				X	
VT <i>Vt. Stat. Ann. 13 §7403</i>									
VA <i>Va. Code Ann. §8.01-670.1</i>		X	X			X	X		

	Need to develop uniform body of law	Substantial ground for difference of opinion	Materially advance end of case	Necessary for correct administration of justice	Restoration of things seized	No clear, controlling precedent	Court and parties agree that in parties best interest to seek IA	Affects substantial rights	Cause substantial error at trial
WA <i>W.A.R.R.A.P.</i> 2.2, 2.3, & 2.4		X	X						X
WV									
WI <i>W.S.A.</i> 808.03			X						
WY <i>W.R.A.P.</i> <i>Rule 13.02</i>		X	X						

Appendix B

NCVLI Memo on Right to An Interpreter

RIGHTS TO AN INTERPRETER

Introduction

In the United States, thirty-three states guarantee crime victims general and specific rights via amendments to their state constitutions. These rights have been established, in part, to ensure that crime victims have a chance to meaningfully participate in the criminal justice process. However, in the case of a non-English speaking victim, these enumerated rights are rendered meaningless if they are not provided an interpreter in a way to fully understand the proceedings in their own language.

This research project discusses the non-English speaking crime victim's right to an interpreter throughout the criminal justice process. Part I of this memorandum will discuss the statutory rights of crime victims to be provided with an interpreter. This research has uncovered only eight states that have statutes in place, affording this right to a non-English speaking crime victim. The varying scope of these statutes will also be discussed in Part I of this memorandum. Part II of this memorandum will analyze the possible constitutional arguments that can be made to appoint an interpreter for the non-English speaking victim. Given that a majority of the states have guaranteed victims rights that rise to the level of constitutional rights, this memorandum will briefly examine a defendant's constitutional rights to be provided with an interpreter and will analogize that a victim's rights should be similarly protected and enforced.

Question Presented #1

Does a non-English speaking crime victim have a right, pursuant to state statutory schemes, to have an appointed interpreter for him or her throughout the criminal justice proceedings?

Short Answer #1

Yes. A handful of states have enacted statutes that specifically require an appointed interpreter for the non-English speaking victim of a crime.

Question Presented #2

Does the jurisprudence of a non-English speaking defendant's right to an interpreter offer rational analogies that could be easily applied to a non-English speaking crime victim's right to be provided with an interpreter?

Short Answer #2

Yes. The rights of the defendant to be present, effective counsel and confrontation offer logical analogies that should be applied to the non-English speaking victim.

I. Statutorily Entitled Right to an Interpreter for a Non-English Speaking Crime Victim

Discussion

The right of a victim to have an interpreter appointed for him or her has been statutorily adopted in only a small amount of states throughout the country. This research has found that only eight states have enacted statutes that require the state or a subdivision thereof to appoint an interpreter for a non-English speaking victim.⁹ States vary in scope of the services provided and appointment authority given to the various state entities. Further, states that have enacted non-English speaking crime victim interpreter statutes, have left some questions unanswered as to the specific parameters involved in the interpretations.

A. Appointment Authority of Interpreters for Non-English Speaking Crime Victims

In the states that have statutes that grant victims the right to interpreters, the authority to appoint interpreters for non-English speaking crime victims generally rests with one of three agencies: the court, law enforcement agency or the state attorneys office. States that give the authority to the court include South Carolina and Virginia. Specifically, Virginia law mandates that “an interpreter shall be appointed by the *judge of the court* in which the case is to be heard.” Va. Code Ann. §19.2-164 (19xx). Whereas South Carolina takes a more demanding approach by maintaining that the court “*must*” appoint a certified interpreter when the non-English crime victim does not sufficiently understand or speak the English language. S.C. Code Ann. §17-1-50 (1998).

The second manner in which an interpreter is appointed is through *law enforcement agencies*. Wyoming law, for example, grants the authority to law enforcement to inform the non-English speaking crime victim of the right to an interpreter by stating that “[v]ictims of a criminal act shall be informed without undue delay by *law enforcement* about” the right to have an interpreter. Wyo. Stat. Ann. §1-40-204 (1991). In addition, Colorado mandates that “any law enforcement agency shall inform each victim as to the availability of...[t]ranslation services...” Colo. Rev. Stat. §24-4.1-303 (1997).

⁹The states include California, Colorado, Florida, Illinois, Indiana, South Carolina, Virginia and Wyoming.

Third, states grant authority to appoint interpreters to non-English speaking crime victims through the *state attorney's office*. Both Indiana and Illinois utilize this method of appointment of interpreters. However, Indiana also grants the authority to a *victim assistance program* to inform the non-English speaking of their statutory right to an interpreter. Ind. Code §35-40-6-4 (19xx).

B. Duties of Interpreter

While some states make absolute the services of an interpreter throughout the entire criminal justice proceeding, others require victims only be advised of the enumerated rights granted to that non-English speaking victim in his or her state. For example, South Carolina has dedicated an entire statute which governs interpreters in criminal proceedings that reads “whenever...[a] victim in a criminal legal proceeding does not sufficiently understand or speak the English language to comprehend the proceeding,...the court must appoint a certified or otherwise qualified interpreter to interpret the proceedings to the...victim.” S.C. Code Ann. §17-1-50 (1998). Moreover, Illinois also provides an interpreter throughout all of the stages of the criminal justice proceeding. Specifically, the statute provides for an interpreter “at all court proceedings.” Ill. Comp. Stat. §120/4.5 (1994). Lastly, Florida provides that translator services shall be provided “in attending court.” Fla. Stat. §960.001 (19xx).

Other state statutes are less clear as to the actual stages an interpreter will be provided for a non-English speaking victim. Specifically, Indiana and Wyoming seem to provide an interpreter to a victim; however, the duties of that interpreter are unclear. The Indiana statute maintains that an interpreter be provided for a crime victim to “advise a victim of the rights granted to a victim under the law.” Ind. Code §35-40-6-4 (19xx). In addition, the Wyoming crime victim interpreter statute maintains that an interpreter “inform the victim of these rights.” Wyo. Stat. Ann. §1-40-204 (1991).

Virginia appears to provide an interpreter throughout the proceedings; however, the statute is silent as to the stages in which the interpreter services will actually be required by the court. Va. Code Ann. §19.2-164 (19xx). In addition, Colorado’s crime victim interpreter statute is also silent as to the stages an interpreter will be provided, however, the statute expressly provides for “information printed in languages other than the English language.” Colo. Rev. Stat. §24-4.1-303 (1997).

II. Constitutional Rights of Defendants Analogous to Non-English Speaking Crime Victims

Question Presented

Does the jurisprudence of a non-English speaking defendant’s right to an interpreter offer rational analogies that could be easily applied to a non-English speaking crime victim’s right to be provided with an interpreter?

Short Answer

Yes. The rights of the defendant to be present, effective counsel and confrontation offer logical analogies that should be applied to the non-English speaking victim.

Discussion

A defendant's rights have long been protected by the criminal justice process. The defendant's interests implicate provisions of the Constitution such as the Due Process Clause, Double Jeopardy Clause. Moreover, a defendant's right to be present, confront adverse witnesses and effective counsel are all highly guarded right within the criminal justice system. Moreover, these rights are not merely granted, but *must* also be meaningfully enforced. Similarly, crime victims who have been granted analogous constitutional rights, should be similarly protected and enforced. This section attempts to compare a non-English speaking defendant's rights to be present, effective counsel and confrontation with the non-English speaking victim's to be present, confer with the prosecution and to be heard. In this section, the author will argue that similar analysis should be used for a non-English speaking victim's right to an interpreter as is used in a non-English speaking defendant's right to an interpreter.

It is well settled law that a non-English speaking defendant is constitutionally entitled to an interpreter when he or she does not sufficiently comprehend the English language. *People v. Martinez*, 217 Cal. Rptr. 546 (1985). Generally, when a non-English speaking defendant that cannot understand the proceedings is deprived of an interpreter, his or her due process rights will be violated. *State v. Natividad*, 111 Ariz. 191, (1974). In addition to a violation of the defendant's due process rights, courts have stated that when an interpreter is not appointed for a non-English speaking defendant, his or her trial would be "meaningless," and the defendant "would not be given his day in court." *State v. Faafiti*, 54 Haw. 637, (1973).

Specifically, the courts have found three rights that have been violated when a non-English speaking defendant is denied an interpreter; first, the right to be present has been violated under the law. *State v. Jendis*, 62 Conn. App. 787, (2001). Also, courts have generally held that when an interpreter is not provided to a non-English speaking defendant, his or her right to effective counsel may be violated. *State v. Koumelis*, 258 N.J. Super. 420, (1992). Lastly, the courts have held that when a non-English speaking defendant was not provided with an interpreter, his or her right to confrontation was violated under the law. *Tebrani v. State*, 764 So. 2d 895 (Fla. 2000). This memorandum will discuss each of these rights and will analogize that victims have similar rights that must be protected to the same degree.

A. Right to be Present

Pursuant to the Sixth Amendment, the right to be present is one of the most fundamental rights granted to an accused defendant in the criminal justice proceeding. Moreover, courts have interpreted this right to presence to include the ability to meaningfully understand the proceeding in the context of language ability. For example, in *People v. Lau*

813 P.2d 826 (Colo.1991), the Luu court held that, “although the defendant was present during closing arguments and the reading of the jury instructions, we agree with him, that the absence of his interpreter was tantamount to his not being present at all.” *Id.* Other courts have reiterated this notion by claiming “that [the defendant’s] right . . . to be present at trial may be violated if he is not provided with a separate interpreter, who performs the functions of translating for him, into his language” the matters discussed in the proceedings. *State v. Jendis*, 62 Conn. App. 787, (2001). The court reasoned that underlying notions of unfairness in the defendant’s inability to “comprehend” the proceeding warranted a violation of his right to be present. *Id.*

Similarly, pursuant to the crime victims’ amendment adopted by thirty-three states of this country, the right to be present is one of the most fundamental rights afforded to crime victims within the realm of the criminal justice system. As evidenced by the fact that twenty-eight of the thirty-three states that have enacted crime victims amendments to their state constitution, the right to be present is considered as one of the most important.¹⁰ Moreover, “[v]ictims deserve the right to attend, to hear, and consequently to understand the decision making process.” Paul G. Cassell, *Balancing the Scales of Justice: The Case for and the Effects of Utah’s Victims’ rights Amendment*, Utah L. Rev. 1373 (1994). Moreover, in the unpublished opinion of *Landon v. State*, 1999 WL 46543, the Alaskan Court of Appeals held that the right to be present was enforceable and that “provisions of [Alaska’s] constitution shall be self executing.” Similar to the unfairness posed to the non-English speaking defendant without an interpreter; a victim facing the same inherent unfairness would only serve to alienate the very group of people that the crime victims’ amendments are designed to protect, the victims. Therefore, the non-English speaking victims’ guaranteed right to be present would be rendered superfluous, clearly not what the states intended.

B. Right to Effective Counsel

In addition to the right to be present, non-English speaking defendants have the constitutionally based right, pursuant to the Sixth Amendment, to have effective counsel. In *State v. Neave*, 117 Wis. 2d 359, (1984), held that “restricting defendant’s use of the official court interpreter during trial and restricting his opportunity to obtain his own interpreter to sit at the counsel table had the effect of depriving the defendant of . . . the effective assistance of counsel.” Courts have found that, pursuant to the Sixth Amendment, “a critical factual underpinning of th[is] constitutional requirement . . . is that the defendant has so limited an understanding or ability to speak English that his ability to communicate with his counsel is significantly impaired.” *State v. Jendis*, 62 Conn. App. 787, (2001).

Likewise, the right of a non-English speaking victim to confer with the prosecution has been deemed vitally important to the rights of the victim throughout the criminal

¹⁰The states include: Alabama, Alaska, Arizona, Connecticut, Colorado, Florida, Idaho, Illinois, Indiana, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Washington, and Wisconsin.

proceedings.¹¹ Like the requirement of effective counsel demanded by the Sixth Amendment for a non-English speaking defendant and his or her attorney, modern courts have found a similar relationship between the victim and the prosecuting office handling the victim's case. Specifically, "since the adoption of the Victim's Rights legislation, the duty of a prosecutor to a victim has increased. The increase is almost that of an attorney client. As a result, the prosecution is compelled to represent the victims' rights . . . in criminal justice proceedings." *Sttate ex rel. Romley v. Superior Court In and For County of Maricopa*, 181 Ariz. 378, (1995). The Romley court went on to conclude that, "in essence, since the adoption of the Victims Bill of Rights . . . the prosecuting agencies have become *quasi representatives* of alleged victims. Therefore, similar to a non-English speaking defendant receiving ineffective counsel when an interpreter is not provided; an argument can be made that when a non-English *victim* is not provided with an interpreter to communicate with his or her "quasi representative," a violation of his or her right to confer with the prosecution may be violated.

C. Right to Confrontation

A non-English speaking defendant also has the right to confront adverse witnesses in his or her criminal proceeding, pursuant to the Sixth and Fourteenth Amendments. Courts have held that "[o]ne of the most fundamental and closely guarded rights in the American judicial system is Defendants' right . . . to present . . . a meaningful right of confrontation with the witnesses against his interests." *Giraldo-Rincon v. Dugger*, 707 F.Supp. 504, (Fla.1989). Further, the court posed a question to illustrate the lack of meaning of the confrontation, "[h]ow *meaningful* can a confrontation be when the defendant is unable to understand the witnesses' testimony in full and to respond to each and every allegation of the charges leveled at him by the witness?" *Id.*

Similar to a non-English speaking defendant *meaningfully* confronting an adverse witness, the non-English speaking victim has the right to be heard and in some states a right to have a meaningful role in the criminal proceeding. The right to be heard and to have a meaningful role in the proceeding afforded to non-English speaking victims can be seen as analogous to a non-English speaking defendant's right to meaningfully confronting and presenting their view, via cross-examination, of the adverse witness. The "right to be heard provision" adopted in some form by twenty-five of the thirty-three states that have crime victims' amendments, "protects the victim's right to participate directly in the criminal justice process."¹² Paul G. Cassell, *Balancing the Scales of Justice: The Case for and the Effects of Utah's Victims' rights Amendment*, Utah L. Rev. 1373 (1994). Cassell goes on to say generally, that "[t]he right guarantees that the victim may tell the judge . . . about the crime's impact and

¹¹ Of the thirty-three states that have enacted crime victims' amendments, fourteen have enacted a "confer with the prosecution" provision dedicated to the communication of the victim and their "quasi representative." The states include: Alaska, Arizona, Connecticut, Idaho, Illinois, Indiana, Louisiana, Michigan, New Mexico, South Carolina, Tennessee, Texas, Virginia and Wisconsin.

¹² The states include: Alabama, Alaska, Arizona, Florida, Idaho, Illinois, Kansas, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Utah, Washington and Wisconsin

about threats that the defendant might pose.” *Id.* Like the lack of meaningfulness of a confrontation between a non-English speaking defendant and an adverse witness when an interpreter is not provided; the non-English speaking crime victim’s right to be heard of the non-English speaking victim is also meaningless, when an interpreter is absent.

Conclusion

Only a limited number of states have enacted statutes that provide that a non-English speaking victim’s a right to an interpreter is guaranteed by statute. This research uncovered eight states that have the specific right of providing an interpreter for a non-English speaking victim, appointed via the court, law enforcement or the state’s attorney office. Moreover, the duties of an interpreter include interpreting throughout the proceedings or merely advising the victim of the rights granted under the statute.

Despite a lack of statutory authority, victims’ constitutional rights offer an additional and independent argument for victims to be afforded an interpreter. The right of a non-English speaking defendant to be provided with an interpreter provides significant analogous rationale for a non-English speaking victim to also receive an interpreter. Specifically, the defendant’s right to be present, right to effective counsel and the right to confront adverse witnesses, all provide logical similarities to a victim’s right to be present, right to confer with the prosecution and right to be heard. Moreover, the deficiency of providing an interpreter for the non-English speaking defendant should also serve as analogous reasoning that should be applied to the deprivation of providing an interpreter to a non-English speaking victim. Finally, crime victims’ amendments are abundant with specific rights that would be rendered absolutely meaningless if in fact the non-English speaking defendant cannot adequately comprehend the matters involved in the criminal justice process.¹³ Therefore, if the non-English speaking victim does not sufficiently comprehend the English language, an interpreter should be provided for them.

¹³ For example, pursuant to Arizona’s Crime Victims’ Amendment, a crime victim has a right to “read [a] pre-sentence report relating to the crime against the victim...” Arizona Constitution, Article 2, §2.1. Further, the North Carolina Crime Victims’ Amendment grants the non-English speaking victim the right to “present their views and concerns to the Governor or agency considering any action that could result in the release of the accused...” North Carolina Constitution, Article 2, §24.

Appendix C

NCVLI Chart of HIV Testing Statutes by State

HIV TESTING AND SEX CRIMES

About the Project: This chart is a joint project of the National Conference of State Legislatures (NCSL), 7700 East First Place, Denver, CO 80230 and the National Crime Victim Law Institute (NCVLI) of Lewis & Clark Law School, 10015 SW Terwilliger Boulevard, Portland, OR 97219. This project was updated in August 2005 by NCVLI Staff Attorney Liani Jean Heh Reeves and Lewis & Clark law student Nate Pliska. Questions should be directed to NCVLI at (503) 768-6819 or ncvli@lclark.edu.

Disclaimer: The information contained in this chart is educational and intended for informational purposes only. It does not constitute legal advice, nor does it substitute for legal advice. It does not constitute the practice of law and should not be relied upon as such. NCSL and NCVLI disclaim all liability of any kind arising from the use of, or misuse, of the information contained and referenced herein and do not accept responsibility for accuracy or any errors or omissions.

Summary of State Laws: The following chart outlines the rights of victims of sex crimes with regard to HIV testing of the offender and the victim in the U.S. states, the District of Columbia and the U.S. territories. *Note:* HIV testing may encompass a broader range of testing for sexually transmitted diseases.

- ❑ 2 states (OK, TN) provide for some sort of HIV testing upon arrest.
- ❑ 5 states (CO, ID, MO, NJ, TN) provide for mandatory HIV testing at charging.
- ❑ 6 states (DE, FL, KN, NJ, OH, TX) provide for mandatory HIV testing at charging if the victim requests.
- ❑ 4 states (AK, AR, VA, WI) provide for mandatory HIV testing at charging if court finds requisite probability of exposure.
- ❑ 10 states (AZ, CA, GA, HI, IL, IA, MD, NC, OR, SC) provide for mandatory HIV testing at charging if the victim requests and court finds requisite probability of exposure.
- ❑ 12 states (CA, FL, GA, IL, IN, LA, MI, MS, MO, NH, WA, WV) and American Samoa and Guam provide for mandatory HIV testing at conviction.
- ❑ 17 states (AR, CN, HI, KN, ME, MD, MN, MT, NE, NY, OR, PA, RI, SC, UT, VT, VA), the District of Columbia and the Virgin Islands provide for mandatory HIV testing at conviction at the request of the victim.
- ❑ 3 states (AZ, IA, SD) provide for mandatory HIV testing at conviction if victim requests and court finds requisite probability of exposure.

- ❑ 7 states (AL, GA, MS, MO, RI, UT, WY) provide mandatory HIV testing upon confinement.
- ❑ 1 state (KY) provides mandatory HIV testing if recommended by the CDC Guidelines.
- ❑ 1 state (CA) allows a victim of an uncharged crime to request HIV testing of alleged perpetrator if alleged perpetrator is also charged with a sex offense against another victim and the court finds requisite probability of exposure.
- ❑ 18 states (AK, AR, CN, HI, ID, IL, LA, MN, NE, NH, OR, PA, RI, SC, SD, UT, VT, WV) and American Samoa, Guam and the Virgin Islands provide for HIV testing of the victim.
- ❑ No relevant HIV testing statutes were found in Massachusetts, New Mexico, Nevada, North Dakota, Puerto Rico or the Northern Marianas.

Key to Table: V = Victim | D = Defendant | * = at request of V

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
AL	Ala. Code § 22-11A-17	Conviction/ Confinement	All persons sentenced to confinement or imprisonment in any city or county jail or any state correctional facility for 30 or more consecutive days shall be tested for sexually transmitted diseases; or if sentenced over 90 days, 30 days before release.	X*		V			What if D is convicted but not sentenced to prison?
AK	Alaska Stat. § 18.15.300 et seq.	Charging	Mandatory when probable cause is established by the court.	X*	X	V, D	Yes	If convicted, D pays.	
AZ	Ariz. Rev. Stat. Ann. § 8-341 [applicable to juveniles only]	Conviction	Prosecuting attorney to petition court for testing per the request of the victim when the perpetrator is a minor; court makes finding of significant exposure or sex offense.	X		V, D	Yes-ONLY		

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
	Ariz. Rev. Stat. Ann. § 13-1401 et seq.	Charging	Prosecuting attorney to petition court for testing per the request of the victim; court makes finding of significant exposure or sex offense.				Yes		
AR	Ark. Stat. Ann. § 16-82-101	Charging Conviction	If court determines reasonable cause. Once convicted, mandatory testing if victim requests.	X	X	V	Yes		
CA	Cal Pen Code § 1524.1	Charging	At victim's request if court finds probable cause.	X*		V – pre-request V, D – before disclosure	Yes		Prosecutor must advise victim of right to make request.

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
		Uncharged	Victim of uncharged crime may request if D is also charged with a sex offense; court finds probable cause.						
		Conviction	Mandatory testing at conviction.						
CO	Colo. Rev. Stat. § 18-3-415	Charging	Mandatory testing.				Yes		To be used in mandatory upward sentencing if D had notice of HIV infection prior to date offense was committed.

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
	Colo. Rev. Stat. § 18-3-415.5	Charging	Mandatory testing.	X*			Yes		D's voluntary submission to testing admissible as mitigation.
CT	Conn. Gen. Stat. § 54-102b , § 504-102c,	Conviction	Testing ordered upon request of victim or court.	X*	X	V	Yes		Non-compliance is a class C misdemeanor.
DE	Del. Code Ann. tit. 10, § 1077	Charging	Order testing at request of victim.	X*		V, D	Yes	D pays.	Court provides defendant with information concerning HIV testing.
D.C.	D.C. Code Ann. § 22-3901 et seq.	Conviction	Testing is conducted on request of the victim.	X		V, D			

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
FL	Fla. Stat. § 775.0877	Conviction	Court orders testing.	X*					Provides for criminal transmission of HIV.
	Fla. Stat. § 960.003	Charging or Conviction	Court orders testing at request of victim.	X*		V	Yes		Victim's request for disclosure shall be considered a standing request for subsequent HIV test results obtained within 1 year after initial test performed.
GA	Ga. Code § 17-10-15, § 31-22-9.1 et seq.	Arrest / Charging	Testing is conducted on request of the victim. If defendant does not consent, testing upon a probable cause finding of the court.	X*		V		Cost borne by victim or arrested person in discretion of court.	

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
	Ga. Code § 17-10-15	Conviction	If no prior request by victim, upon conviction testing is mandatory within 45 days.	X		V			
	Ga. Code § 42-5-52.1	Incarceration	Mandatory within 30 days.						
HI	Haw. Rev. Stat. §§ 325-16; 325-16.5	Charging	Upon V's request and after in camera probable cause hearing.	X to V's designee.	X	V, D (pre- and post-testing)	Yes	Dept. of Health funding for V testing.	V shall be informed as soon as practicable after the assault of availability of counseling and right to request testing of person charged and the right to V's own testing.
		Conviction	Mandatory if V requests.	X	X	V, D	No		

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
ID	Idaho Code § 39-604	Charging	Mandatory.	X	X if D tests HIV+.	V if D tests HIV+.	Yes	Counsel and testing at no cost to victim if D tests HIV+.	Mandatory for all persons confined or imprisoned in any state prison facility at admission and release.
IL	Ill. Rev. Stat. ch. 705, § 405/5-710 [applicable to juvenile only]	Conviction	Mandatory.	X	X	V	Yes-ONLY	Paid by county and taxed as costs against minor D.	Court has discretion to determine to whom the results may be revealed.
	Ill. Rev. Stat. ch. 720, § 5/12-18	Charging	After probable cause hearing or indictment, prosecutor shall seek order if victim requests.	Court has discretion to decide to whom the results may be revealed.				Paid by county and taxed as costs against D.	In no case shall the identity of the victim be disclosed.

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
IN	Ind. Code § 31-37-19-12 [applicable to juvenile only]	Conviction	Mandatory.	X		V	Yes-ONLY		
	Ind. Code § 35-38-1-7.1 et seq.	Sentencing							Aggravating factor if D knew was carrier of HIV and had received risk counseling.
IA	Iowa Code § 915.42 , § 915.43	Allegation or Conviction	Prosecutor petitions for order if victim requests; court holds in camera hearing. Must try to obtain written informed consent first.	X		V –pre-hearing V, D	Yes		D shall be provided lawyer. V may be represented by private counsel. V may not be compelled to testify.

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
KS	Kan. Stat. Ann. § 38-1692 [applicable to juvenile only]	Charging Conviction	Court orders if victim requests. Once convicted, court may order or shall order if victim requests.	Released to V's designated health care provider.		V	Yes-ONLY	Paid by health dept.; shall order restitution from D.	At time of first appearance, judge shall inform each victim that testing and counseling is available. If test negative, court shall order another test 6 months later.
	Kan. Stat. Ann. § 65-6009	Arrest or Charging Conviction	Court orders if victim or district attorney requests. Once convicted, court may order or shall order if victim requests.	Released to V's designated health care provider.		V		Paid by health dept.; shall order restitution from D.	At time of first appearance, judge shall inform each victim that testing and counseling is available.

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
KY	Ky. Rev. Stat. § 438.250	Conviction	Mandatory if recommended by CDC guidelines.	X pursuant to 510.320.			?	Cost to D.	Mandatory
LA	L.a. Rev. Stat. Ann. § 15:535 , L.a. Crim. Ann. art. 499	Conviction	Mandatory.	X	X is D tests HIV+.	V	X? See Juv: Ch C art. 908.1		
ME	Me. Rev. Stat. Ann. tit. 5, § 19203-F	Conviction	Testing conducted on request of the victim; must request no later than 180 days after conviction.	Released to victim advocate.		V, D Mandatory pre-disclosure counseling.	Yes		
MD	Md. Crim. Proc. Code Ann. § 11-109 et seq.	Charging Conviction	Testing conducted if victim requests and court finds probable cause. Mandatory if victim requests.	X		V –pre and post-test counseling, D	Yes		Victim shall be notified of date, time, location of hearing and the right to be present.

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
MI	Mich. Comp. Laws § 333.5129	Charging Conviction	Court may order. Mandatory testing.	Victim must consent to give name and address.	X?	D	Yes	Court may order D to pay actual and reasonable costs of testing upon conviction.	
MN	Minn. Stat. § 611A.19	Conviction	Testing is conducted at the request of or with consent of the victim	X *		V	Yes		
MS	Miss. Code Ann. § 99-19-203	Conviction	Mandatory at conviction. If confined over 90 days, test 30 days prior to release.	X and V's spouse.		V			
	Miss Code Ann. § 43-21-623 [applicable to juvenile only]						Yes-ONLY		

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
MO	Mo. Rev. Stat. § 191.659 et seq. , § 566-135	Charging Conviction Confinement	Court ordered testing of defendants charged certain crimes. Mandatory upon conviction. All persons imprisoned or confined in the Department of Corrections will undergo HIV testing.	X			Yes		
MT	Mont. Code Ann. § 46-18-256	Conviction	Testing is mandatory at the request of the victim.	X	X	V -if requested	Yes		
NE	Neb. Rev. Stat. § 29-2290	Conviction	Testing is mandatory at the request of the victim.	X	X	V, D	Yes	Cost by D unless court finds indigent.	

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
NV	Nev. Rev. Stat. § 201.358								Provides for B felony if person engages in conduct likely to transmit disease if person has tested positive and received actual notice of HIV+ result.
NH	N.H. Rev. Stat. Ann. § 632-A:10-b	Conviction	Mandatory	X to V/W Office; V/W Office may notify V regardless of V's request.	X	V, D	Yes		
NJ	N.J. Stat. Ann. § 2A:4A-43.1 et seq. [applicable to juvenile only]	Charging	Mandatory test for SA or aggravated SA.	Disclose to victim witness office.		V	Yes-ONLY	May order D to reimburse cost.	

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
	N.J. Stat. § 2C:43-2.2 et seq.	Charging	Mandatory at request of victim.	Disclose to victim witness office.		V	Yes	May order D to reimburse.	
NY	N.Y. Crim. Proc. Law § 390.15 , Pub. Health Law § 2785 et seq.	Conviction	Mandatory upon request of victim in writing within 10 days of conviction.	X		V	Yes		
NC	N.C. Gen. Stat. § 15A-615	Charging	Testing on request of the victim and probable cause finding.	X		V, D			
OH	Ohio Rev. Code Ann. 2907.27	Charging	Testing is mandatory on request of the prosecutor or victim.	X*					Must inform victim of test and right to receive results; is an ongoing request.

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
OK	Okla. Stat. tit. 63, § 1-524 et. seq	Arrest	Testing conducted on court order following arrest for certain crimes	Disclose to victim witness coordinator or V's designated professional.	X – victim provided preventative treatment if within 6 hours.			Cost by D. No cost to V for testing or treatment required by V due to positive result.	
OR	Or. Rev. Stat. § 135.139	Charging Conviction	Testing of the defendant can be requested by the victim and probable cause hearing. At conviction, court seeks consent to test or if victim requests testing is mandatory.	Disclose to V's designated physician.	X	V –if requested, D		Cost by CVC; restitution to state.	V must be notified that testing and counseling are available.
PA	Pa. Cons. Stat. tit. 35, § 521.11a	Conviction	Testing is mandatory upon request of the victim.	X	X	V			

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
RI	R.I. Gen. Laws § 11-37-17	Conviction	Testing conducted on those persons guilty of a sexual offense when requested by the victim.	X*	X	V	Yes		
	R.I. Gen. Laws § 42-56-37	Confinement	Required testing for HIV if in adult correctional institution.						
SC	S.C. Code Ann. § 16-3-740	Charging Conviction	Testing upon request of V and court orders after probable cause hearing. Once convicted, testing mandatory if V requests.	X	X –if requested	V –if requested, D	Yes	State pays; if convicted, D may reimburse unless indigent.	D has right to counsel at probable cause hearing.
SD	S.D. Codified Laws Ann. § 23A-35B-1 et seq.	Conviction	Testing upon request of the written request of victim and probable cause hearing.	Disclose to V's designee	X	X	Yes	County pays; may request reimbursement if D convicted.	Apply at charging?

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
TN	Tenn. Code Ann. § 39-13-112, § 39-13-521	Arrest	Testing upon request of victim in case of aggravated assault (limited to specific victims). Immediate testing required for persons charged with a sexual offense.	X		D		Testing upon request of victim in case of aggravated assault.	
TX	Tex. Crim. Proc. Code Ann. § 21.31	Charging	Testing can occur at either the request of the court or of the victim.	X					
UT	Utah Code Ann. § 64-13-36 [applicable only to prisoners]	Conviction/Confinement	Testing conducted on all prisoners who have been adjudicated and found guilty of a criminal offense and who are in custody of the Department of Corrections.			D			

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
	Utah Code Ann. § 76-5-502 et seq.	Conviction	Mandatory if V requests within six months of conviction.	X	X –CVRF pays		Yes	D responsible for cost unless indigent.	
VT	Vt. Stat. Ann. tit. 13, § 3256	Conviction	Testing conducted at request of victim.	X	X	V	Yes	Cost by Dept. of Public Safety.	
VA	Va. Code Ann. § 18.2-62	Charging Conviction	Probable cause hearing. After conviction, testing conducted when the attorney for the Commonwealth has consulted with the victim of a sexual assault.	X		V, D	Yes		
WA	Wash. Rev. Code § 70.24.340 , § 70.24.105	Conviction	Mandatory after conviction.	X*		V, D			

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
WV	W. Va. Code § 16-3C-2	Conviction	Mandatory.		X	V, D		V testing and counseling paid by bureau; restitution to state unless indigent goes to "HIV testing fund."	Prosecutor must inform V of availability of and recommendation for voluntary HIV testing and counseling.
WI	Wis. Stat. § 968.38	Charging	DA shall apply if probable cause that victim was significantly exposed or if victim requests; then probable cause hearing.	X					
WY	Wyo. Stat. § 35-4-134	Conviction/Confinement	Mandatory testing of any individual imprisoned or confined in any state penal institution, county or city jail or any community correctional facility.						

State	Statute (see statute for specific crime type and degree)	Time of Testing	Requirements to Test	Results Provided to Victim	Victim HIV Test Provided	HIV Counsel & Referral Provided	Applicable to Juvenile Defendants	Who Bears Cost	Notes
AMERICAN SAMOA	Am. Samoa Code Ann. § 46.3619	Conviction	Mandatory.	X	X	V	No		
GUAM	8 Guam Code Ann. § 120.60	Conviction	Mandatory.	X	X	V	No		
VIRGIN ISLANDS	5 V.I. Code Ann. § 3911	Conviction	Mandatory at request of victim.	X	X	V (pre- and post-testing), D	No		Prosecutor shall advise victim of right to request the testing of D.

Appendix D

NCVLI Chart on Polygraph Testing of Rape Victims

POLYGRAPH TESTING OF RAPE VICTIMS

Introduction

Despite many state laws prohibiting such action, law enforcement officers throughout the country often require rape victims to take tests in order to determine the victim's truthfulness. There are many states in the U.S. that have no law prohibiting required polygraphs of rape victims. Despite a potential violation of the equal protection clause of the U.S. Constitution, as well as many states' constitutions and statutes, this invasive practice born from long-standing societal beliefs that rape victims "cry rape" is alive and well in America. This practice of requiring polygraphs of rape victims is limited to victims of rape and is not required of other crime victims.

This research paper addresses the laws regarding the allowance and prohibition of using polygraph examinations on rape victims nationwide. This paper is organized in three parts. First, in the background section, a brief discuss of the crime of rape and the historical mistrust of rape victims to explain where the practice of using polygraph examinations on rape victims evolved from; a brief description of the polygraph test itself; and general admissibility. Second, a survey of the nation's laws that prohibit or limit the polygraph testing of rape victims, examples of a well-drafted law that provides the most protection for victims and of poorly drafted laws that do not adequately protect victims. Third, a discussion of legal and public policy arguments which can be used to challenge laws and practices that allow the polygraph of rape victims.

Question Presented #1

What are the current laws regarding polygraph testing on rape victims?

Short Answer #1

It varies. Some states have banned or limited the use of polygraphs on rape victims while other states allow the practice. Currently, California, Connecticut, Illinois, Kentucky, New York, and Texas have general provisions against the use of polygraphs on rape victims. Colorado, Iowa, and Oregon have laws that prohibit mandatory polygraphs of rape victims as a precondition to filling an accusatory pleading or investigation. Michigan prohibits requiring alleged victims of sexual offenses to submit to a polygraph examination unless the suspect voluntarily submitted to a polygraph examination which indicated that the suspect did not commit the crime.

Question Presented #2

What are the public policy arguments that can be presented to challenge polygraph testing of rape victims?

Short Answer #2

Rape victims should not be required to submit to polygraph testing because the practices unfairly singles out rape victims and treats them differently than other crime victims. There are no nationwide standard procedures in place when the polygraph is administered to rape victims. The polygraph has not been proven to be scientifically reliable as a means of ascertaining whether the interviewee is telling the truth. Due to the nature of rape, rape victims are poor polygraph subjects. Finally, a polygraph requirement discourages many victims to report the crime and the crime of rape is already perpetually underreported.

I. The Crime of Rape and Mistrust of Rape Victims

Rape is one of the most violent crimes committed against a person. A rape victim — male or female — has to face an assault against the person, mind and spirit. While today most people feel that the nation has come a long way in its treatment of women, some of the biases and misconceptions about rape, the perpetrators and the victims still exist. There are two approaches to criminal law: common law and the model penal code. Under common law, a rape is defined by Blackstone as “carnal knowledge of a woman forcibly and against her will.”¹⁴ Traditional rape statutes define rape as sexual intercourse achieved “forcibly, against the will of the female or without her consent.”¹⁵

Society’s perception of rape is important because the punishment for the crime often depends of the perceived social harm that the crime caused. Current rape laws come from male-focused property law. A young virgin was considered property of her father, and a wife was chattel of her husband.¹⁶ As a result of this view, rape was considered a property crime and the punishment usually was a fine paid to the husband or father as the owner of damaged goods. Rape is now considered a violent crime against a person, not simply a property transgression.

At common law, the testimony of the alleged rape victim was sufficient to uphold a conviction for rape.¹⁷ Some believe that there is a higher risk of convicting an innocent

¹⁴ Blackstone at 212.

¹⁵ Understanding Criminal Law, Third Edition Joshua Dressler (2001).

¹⁶ Id. At 573.

¹⁷ American Law Institute, Comment to § 213.6 at 422; State v. Matlock, 660 P.2d 945, 946 (Kan. 1983).

person for rape than other crimes.¹⁸ This belief has led some states to institute a corroboration requirement by statute or case law.¹⁹ Jury instructions provide an example of the corroboration need for a rape conviction. In states that require corroboration, the cautionary jury instructions are taken from Lord Hale's assertion that rape "is an accusation easily made and hard to be proved, and harder to be defended by the party accused, though never so innocent."²⁰

The corroboration requirement reflects society's lingering doubts about the veracity of rape allegations. Supporters of the corroboration requirement cite three principle reasons for the requirement: 1) the credibility of the victim; 2) the tendency to "cry rape"; and 3) racism. One view is that a woman's testimony is unreliable at best because women, they argue, have a difficult time distinguishing their sexual fantasies from reality. Under this view, women would fantasize about a sexual encounter and then believe that it had actually happened. Proponents of corroboration also argue that women have a tendency to "cry rape." This tendency is due to society's expectation that women abstain from sexual relations outside of marriage. However, if they do not abstain or if they become pregnant they must allege rape or risk being socially ostracized. The same rationale is used for racism argument. The argument is that women — particularly white woman — were more likely to claim rape when they were sexually involved with men of another race.

Although some of these views are extreme many feel that the rape victim is partly to blame for the crime. Some argue that this is due to a desire to believe that the world is just and that crime or bad things do not happen without a reason. People want an explanation that they can understand and accept. So they often will rationalize the event by saying that the victim must have "deserved it." In terms of rape, comments about what the victim was wearing or how the victim was behaving may be used to explain why the crime occurred. This is not to say that most feel that the victim is wholly responsible, but that the victim bore some responsibility for the rape.

These attitudes still exist today and rape is virtually the only crime where the focus is more on the victim rather than the alleged perpetrator. If it were not for the passage rape shield laws, information regarding the sexual history and "chastity" of the victim would still be relevant in a rape case. In some unfortunate cases, the victim's credibility may determine whether there is an initial investigation and whether charges are filed and ultimately the disposition of the case. Some states, through the practice of the police, require rape victims to submit to a polygraph examination prior to investigation of an alleged rape. All of these lingering perceptions about the inherent unreliability of rape victims form the backdrop for the practice of polygraph testing rape victims.

¹⁸ *Id.*

¹⁹ *Understanding Criminal Law*, Third Edition Joshua Dressler (2001).

²⁰ *Id.* citing 1 Hale at 635.

A. Polygraphs

The polygraph exam is a modern day version of the lie detector. In 1895, Cesare Lombroso attempted to detect false statements by measuring changes in blood pressure.²¹ During the polygraph exam the witness is attached to several instruments including a blood pressure cuff, pneumograph, and finger electrodes. The examiner interprets the subject's physiological responses, as recorded by the polygraph machine, to determine truthfulness of the witness's statements. More specifically, the term *polygraph* means:

1. An instrument that records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards; and
2. Is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.²²

Some argue that the polygraph is really good at detecting how afraid someone is. According to Sloan, the polygraph can measure a reaction to a question, but not necessarily a deceptive reaction. JE Reid, the developer of the modern day polygraph, lists factors that may affect polygraph result. They include: lack of concern over the possibility of being detected, extreme emotional tension or nervousness, over anxiety, anger, concern over neglect of duty or responsibility that made possible the commission of the offense, physical discomfort during the test, excessive number of test questions, adrenal exhaustion, inadequate question phraseology, and miscellaneous factors such as room temperature and body movement.²³

B. General Admissibility

The majority of states allow evidence regarding polygraphs to be admitted into court upon stipulation of the parties. Information pertaining to polygraphs is inadmissible in eight states. These states doubt the scientific reliability of these tests in their ability to ascertain the veracity of the statements made. The laws that prohibit the use of polygraph for rape victims offer the most protection in states that allow this type of evidence. For example, in California, polygraph evidence is admissible upon stipulation of the parties. In the event the parties wanted polygraph evidence it could be allowed by the court. In the case of sexual assault, California law prohibits the use of polygraphs on victims of sexual assault; therefore no such evidence would be available for admission.

²¹ *Revictimization by Polygraph*, Sloan 1995.

²² Employee Polygraph Protection Act, § 801.02.

²³ *Id.* at 259.

II. State of the Nation

A. Federal Law

Currently there is no federal law that protects rape victims from mandatory polygraph testing. The National Crime Victim Bill of Rights does have a provision that provides the victim the right to privacy. Many states that have amended their constitutions to give victims rights have language that may help the rape victim. For example, in Idaho, a crime victim has the right to be treated with fairness, respect, dignity, and privacy throughout the criminal justice process.²⁴

B. Survey of State Laws

Some states have banned or limited the use of polygraphs on rape victims while other states allow the practice. Currently, California, Connecticut, Illinois, Kentucky, New York, and Texas have general provisions against the use of polygraphs on rape victims. Colorado, Iowa, and Oregon have laws that prohibit mandatory polygraphs of rape victims as a precondition to filing an accusatory pleading or investigation. Michigan prohibits requiring alleged victims of sexual offenses to submit to a polygraph examination unless the suspect voluntarily submitted to a polygraph examination which indicated that the suspect did not commit the crime.

Most laws addressing polygraph use and rape victims are codified in the criminal code of the state. In some cases the codification appears in the state's evidence code. While new laws prohibiting the use of polygraph on rape victims are welcomed, these laws must be well drafted to provide the victim the most protection at each stage in the criminal justice process. The following table illustrates the law in the ten states that currently limit or prohibit the use of polygraphs on rape and sexual assault victims.

²⁴Idaho Const. Art. I §22.

State of the Nation
Prohibition on Polygraph Examination of Rape Victims

State	Polygraph Prohibited	Phase of Prohibition	Prohibition Directed to	Statutory Language
CA	Yes	All phases	Silent	A complaining witness in a sex offense case cannot be required or requested to take a polygraph. Cal. Penal Code § 637.4
CO	Yes	Condition of investigation	Silent	A victim of sexual offense cannot be compelled to take a polygraph examination as the sole condition for proceeding with investigation or prosecution. C.R.S. § 18-3-407.5.
CT	Yes	All phases	Silent	Victims of sexual assault may not be required to submit to a polygraph examination. Conn. Gen. Stat. § 54-86(j).
IL	Yes			A victim of a sexual crime may not be compelled to submit to polygraph. ILCS § 200/1. In the course of a criminal trial, the court shall not require a polygraph. ILCS § 725\115-19.
IA	Yes	Precondition of Investigation	“Agency conducting an investigation into the matter”	Victims or witnesses of a sexual assault shall not be required to take a polygraph examination as a precondition to the agency conducting an investigation into the matter. IA. St. § 915.44.
KY	Yes	In connection w/ reporting a sexual assault	Law enforcement officer; district attorney	If a person reports to a law enforcement officer or a district attorney that he or she was the victim of [a sexual assault] offense, no law enforcement officer or district attorney may in connection with the report order, request, or suggest that the person submit to a test using a lie detector, or provide the person information regarding tests using lie detectors unless the person requests information regarding tests using lie detectors.
MI	Yes	Not informed of the option		Victim of sexual assault shall not be required or requested to submit to a polygraph examination nor inform a victim of the option unless the victim inquires, or if the suspect voluntarily submitted to a polygraph examination which indicated that the suspect did not commit the crime. M.C.L.A. § 776.21.
NY	Yes		DA, Police, employee of any law enforcement agency	No district attorney, police officer, or employee of any law enforcement agency shall request or require any victim of a sexual assault crime to submit to a polygraph or psychological stress evaluator examination. N.Y.C.P. § 160.45.
OR	Yes	As prerequisite to filing an accusatory pleading.	DA, law enforcement officer, or investigator involved in the investigation or prosecution of crimes	No district attorney or other law enforcement officer or investigator involved in the investigation or prosecution of crimes, or any employee thereof, shall require any complaining witness in a case involving the use of force, violence, duress, menace or threat of physical injury in the commission of any sex crime under ORS 163.305 to 163.575, to submit to a polygraph examination as a prerequisite to filing an accusatory pleading. [1981 c.877 §1].
TX	Yes		Peace Officer	A peace officer may not require a polygraph examination of a person who seeks to charge in a

State	Polygraph Prohibited	Phase of Prohibition	Prohibition Directed to	Statutory Language
				complaint the commission of a sex offense, including sexual assault, indecency with a child, and incest. Code of Criminal Procedure, Article 15.051.
WI	Yes			No law enforcement officer or district attorney may in connection with the report order, request, or suggest that the person submit to a test using a lie detector, or provide the person information regarding tests using lie detectors unless the person requests information regarding tests using lie detectors.

C. Analysis of State Laws

For the purpose of analyzing state laws of the ten states, the statutory language can be placed into two categories, general prohibitions and conditional prohibitions. The following is an analysis of the laws that are currently in place in several states in the U.S. California, Connecticut, Illinois, and Kentucky have statutes that provide general prohibition of the use of polygraphs. For example, the California statute reads, “A complaining witness in a sex offense case cannot be required or requested to take a polygraph.”²⁵ This is effective because there is no conditional language such as the other states.

Colorado, Iowa, Michigan, and Oregon provide conditional protections. In these states, requiring a polygraph of a rape or sexual assault victim is prohibited as a condition for proceeding investigation or prosecution. In Michigan, requiring a polygraph is prohibited unless the victim requests it or the defendant submits to a polygraph and passes and there is some indication that the defendant may not have committed the crime. While there are some positive aspects of these statutes, the conditional language provides a loophole for the agency or individual requiring the polygraph. For example, the Colorado language is probably the weakest because it provides the biggest loophole. The Colorado statute reads, “A victim of sexual offense cannot be compelled to take a polygraph examination as the sole condition for proceeding with investigation or prosecution.” The term as “the sole condition” provides ample opportunity to avoid the statute. The requestor could simply argue that the polygraph is not the sole condition for proceeding with the investigation or prosecution, but rather one of many factors. This provides for the reliance on prosecutorial discretion in the decision to require a rape victim to submit to a polygraph. Below is the Oregon statute.

No district attorney or other law enforcement officer or investigator involved in the investigation or prosecution of crimes, or any employee thereof, shall require any complaining witness in a case involving the use of force, violence, duress, menace or threat of physical injury in the commission of any sex crime under ORS 163.305 to 163.575, to submit to a polygraph examination as a prerequisite to filing an accusatory pleading. [1981 c.877 §1][ORS 163.705].

²⁵ Cal. Penal Code § 637.4.

The Oregon statutory language applies to the district attorney, law enforcement officers, or anyone acting on their behalf. A broad approach such as this is necessary if the law is to protect the victim from all parties seeking to require a polygraph. Often law enforcement officers want a polygraph to ensure that the allegations are not false. The prosecutors often look to polygraph results to strengthen their case. Despite the inclusive language at the beginning of the statute, the conditional language weakens the statute. In Oregon, the rape victim is only protected when the polygraph is required as a prerequisite to filing an accusatory pleading. A strict reading of the statute renders the first part of statute moot because law enforcement cannot file accusatory pleadings. Also the language does not prohibit the use of a polygraph as a prerequisite for proceeding with an investigation. This language should be modified to offer substantial protection to rape victims.

Other statutes may offer the rape victim more protection. For example, the New York statute is listed below. This statute, on first glance, seems short and not as comprehensive as the other states. However, the language is clear and concise, thus allowing less opportunity to evade it.

No district attorney, police officer, or employee of any law enforcement agency shall request or require any victim of a sexual assault crime to submit to a polygraph or psychological stress evaluator examination. N.Y.C.P. § 160.45.

This statute is good because it provides the victim protection not only from the polygraph but from other polygraph type test. Therefore a statute must be clear when describing the type of test prohibited.

D. Model Law

The most effective law is one that is clearly written and leaves little room for misinterpretation. Most importantly, a well-written law provides the most protection to the rape victim at all stages of the criminal process. The law must protect the victim from mandatory polygraph at the request of law enforcement, district attorney, or any other party acting on their behalf. The model law would also provide for damages. Many victims' rights laws are not enforced because there is no punishment for their violation. For example, a model law would be similar to the language below.

General Provisions

No state or local governmental agency involved in the investigation or prosecution of crimes, or any employee thereof, shall require or request any victim of a sexual offense to submit to a polygraph examination or any form of a mechanical, electrical lie detector examination, or any other similar test.

At the request of the victim a law enforcement agency may conduct any such examination only with the victim's written informed consent. A victim's

refusal to submit to a polygraph or any form of a mechanical or electrical lie detector test shall not mitigate against the investigation, charging or prosecution of the pending case as originally charged.

Definitions

“Law enforcement officer” means a police officer of a county, city, village, township, or this state; a college or university public safety officer; a prosecuting attorney, assistant prosecuting attorney, or an investigator for the office of prosecuting attorney; or any other person whose duty is to enforce the laws of this state.

“Victim” means a person who is a victim of a crime under sections ____.

“Polygraph” means any mechanical or electrical instrument or device of any type used or allegedly used to examine, test or question individuals for the purpose of determining truthfulness.

Damages

Any person who has been injured by a violator of this section may bring an action against the violator for his actual damages or one thousand dollars (\$1,000), whichever is greater.

Any person who is given a polygraph examination and who suffers damages as a result of such polygraph examination having been administered in a negligent manner shall have a cause of action against the polygraph examiner.

III. Policy Arguments Against Polygraph Testing Rape Victims

A. Preventing the Mistreatment of Rape Victims

As stated in the introduction to this paper, rape and sexual assault victims are often singled out and treated much differently than any other crime victim. For example, if a person has his or her car stolen, it is very unlikely that the police or the district attorney would require the alleged victim to submit to a polygraph before filing a report or deciding to prosecute. This discriminatory treatment of rape victims should not be tolerated. The mistreatment of rape and sexual assault victims has become known as the second assault.²⁶

In 1990, Lacey Sloan surveyed 83 rape crisis centers across the country. According to Sloan, mandatory polygraphs of rape victims do not take place regularly in all communities, but in pockets throughout states that permit it. The second assault occurs when the rape victim has reported the crime and is faced with a series of hurdles she must clear before any investigation will take place of charges brought. Rape is typically an underreported crime. There is some evidence that suggests that when rape victims muster up enough courage to report the rape and then are faced with a series of interviews including a potential polygraph,

²⁶ ‘Second Assault’ on Crime Victims, Lacey Sloan, *International Journal of Medicine and Law*.

many victims choose not to go forward with the charges. Sloan found that in 12 of the 19 states surveyed, actions adverse to the complainant occurred. Charges against alleged perpetrators were dropped in 44 percent of the cases and no investigation ensued in 50 percent of the cases.

B. Unreliability of Polygraph and Similar Devices

Polygraphs are generally unreliable and should not be used on rape victims. Rape victims generally make poor polygraph subjects. At the request of Congress, the National Research Council (NRC) conducted a study of polygraph's ability to distinguish between lying and truth telling across a variety of settings and examinees.²⁷ Some countermeasures were also used to defeat the test. The study concluded that although psychological states associated with deception, such as fear of being accurately judged as deceptive, do tend to affect the physiological responses that the polygraph measures, many other factors, such as anxiety about being tested, also affect those responses. Such phenomena, researchers say, make polygraph testing intrinsically susceptible to producing erroneous results.²⁸

There are no national standards for polygraph tests and examiners and the licensure and training requirements vary from state to state. Therefore, it is possible that the rape victim may be subjected to further abuse at the hands of an untrained examiner. According to Sloan, the polygraph falls into the same category as other 'truth tests' used throughout history such as walking on coals.

Conclusion

Many states are beginning to recognize that the crime of rape is treated substantially different from other crimes and have begun to pass laws to change the way rape victims are treated. One of the most notorious differences is the way that rape victims are disbelieved and required to submit to various "truth" tests as a means to ferret out false allegations. States that have passed laws should be encouraged to redraft the laws until they offer adequate protection to rape victims. The states that have not passed any laws prohibiting the use of polygraph tests on rape victims should be encouraged to draft some laws and begin to protect all citizens.

²⁷ Issues in Science and Technology, *Flaws in Forensic Science: The Limits of Polygraph*. Fall 2003.

²⁸ Id at 5.

Appendix E

State Law Chart

STATE LAWS

The following chart contains links to various governmental and legislative web sites and information on sexual assault statutes, administrative rules, rules of court, and other online resources. Compiled by the Center for Law & Public Policy on Sexual Violence, the chart was last updated on August 1, 2005.

ALABAMA

CONSTITUTION	http://alisdb.legislature.state.al.us/acas/ACASLogin.asp (Searchable)
STATUTES	Code of Alabama: http://www.legislature.state.al.us/CodeofAlabama/1975/coatoc.htm
CRIMINAL CODE	Criminal Code at Ala. Code Title 13A
SEXUAL ASSAULT/RAPE	Sexual Offenses at Ala. Code §§ 13A-6-60 to -70 (Title 13A, Chapter 6, Article 4)
ADMINISTRATIVE RULES	Alabama Administrative Code: http://www.alabamaadministrativecode.state.al.us/mainmenu.html
PUBLIC RECORDS LAWS	Alabama Open Records Law (Ala. Code § 36-12-40): http://www.legislature.state.al.us/CodeofAlabama/1975/36-12-40.htm Alabama Access to Public Records: http://www.legislature.state.al.us/CodeofAlabama/1975/36-12-40.htm
RULES OF COURT	
RULES OF EVIDENCE	Psychotherapist-Patient Privilege (Rule 503)
VICTIMS' RIGHTS	Alabama Crime Victims Bill of Rights (Ala. Code §§ 15-23-60 to -84): http://www.ago.state.al.us/victim_master.cfm?Action=Rights http://www.ago.state.al.us/victim_rights.cfm
OTHER	

ALASKA

CONSTITUTION	http://ltgov.state.ak.us/constitution.php http://www.law.state.ak.us/doclibrary/doclib.html
STATUTES	Alaska Statutes: http://www.legis.state.ak.us/FOLHOME.HTM http://www.law.state.ak.us/doclibrary/doclib.html
CRIMINAL CODE	Criminal Law at Alaska Stat. Title 11: http://www.legis.state.ak.us/cgi-bin/folioisa.dll/stattx02/query=*/doc/{t3978}?
SEXUAL ASSAULT/RAPE	Sexual Offenses (Alaska Stat. §§ 11.41.410 to .470): http://www.legis.state.ak.us/cgi-bin/folioisa.dll/stattx02/query=*/doc/{@4038}?
ADMINISTRATIVE RULES	Alaska Administrative Code: http://old-www.legis.state.ak.us/cgi-bin/folioisa.dll/aac? http://www.law.state.ak.us/doclibrary/doclib.html
PUBLIC RECORDS LAWS	Alaska Public Records Act (Alaska Statutes Title 40, Chapter 25): http://www.touchngo.com/lglcntr/akstats/Statutes/Title40/Chapter25/Section110.htm
RULES OF COURT	http://www.state.ak.us/courts/rules.htm
RULES OF EVIDENCE	http://www.state.ak.us/courts/ev.htm Psychotherapist-Patient Privilege (Rule 504): http://www.state.ak.us/courts/ev.htm#504
VICTIMS' RIGHTS	http://www.law.state.ak.us/departement/criminal/victims_rights.html
OTHER	Alaska Criminal Jury Instructions: http://www.state.ak.us/courts/crimins.htm Alaska Legal Research: http://www.state.ak.us/courts/aklegal.htm Alaska Library & Legal Resources: http://www.law.state.ak.us/doclibrary/doclib.html

ARIZONA

CONSTITUTION	http://www.azleg.state.az.us/Constitution.asp (Searchable)
STATUTES	Arizona Revised Statutes: http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp
CRIMINAL CODE	Arizona Criminal Code at Ariz. Rev. Stat. Title 13: http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=13
SEXUAL ASSAULT/RAPE	Arizona Sexual Offenses (Ariz. Rev. Stat. Title 13, Chapter 14): http://www.azleg.state.az.us/FormatDocument.asp?inDoc=/ars/13/01401.htm&Title=13&DocType=ARS
ADMINISTRATIVE RULES	Arizona Administrative Code: http://www.azsos.gov/public_services/Table_of_Contents.htm
PUBLIC RECORDS LAWS	Arizona Public Records Act (Ariz. Rev. Stat. Title 39): http://www.azleg.state.az.us/ArizonaRevisedStatutes.asp?Title=39
RULES OF COURT	http://www.supreme.state.az.us/rules/ http://azrules.westgroup.com/home/azrules/default.wl
RULES OF EVIDENCE	http://azrules.westgroup.com/home/azrules/default.wl
VICTIMS' RIGHTS	Crime Victims' Bill of Rights (Ariz. Const. Art. II, Section 2.1) and Ariz. Rev. Stat. Title 13, §§ 4401 <i>et seq.</i> : http://www.dps.state.az.us/azvictims/victimRights/default.asp
OTHER	

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ARKANSAS

CONSTITUTION	http://www.arkleg.state.ar.us/data/constitution/index.html
STATUTES	Arkansas Code: http://170.94.58.9/NXT/gateway.dll?f=templates&fn=default.htm&vid=blr:code
CRIMINAL CODE	Criminal Offenses at Ark. Code Title 5
SEXUAL ASSAULT/RAPE	Sexual Offenses at Ark. Code Title 5, Chapter 14
ADMINISTRATIVE RULES	Administrative Rules: http://www.sosweb.state.ar.us/admin_rules.html
PUBLIC RECORDS LAWS	Arkansas Freedom of Information Act (Ark. Code 25-19-101 <i>et seq.</i>): http://www.ag.state.ar.us/opinions/foia.htm
RULES OF COURT	http://courts.state.ar.us/rules/
RULES OF EVIDENCE	http://courts.state.ar.us/rules/index2.html#Evidence Physician and Psychotherapist-Patient Privilege (Rule 503): http://courts.state.ar.us/rules/evidart5.html#3
VICTIMS' RIGHTS	Arkansas Crime Victims Reparations Program: http://www.ag.state.ar.us/outreach/cvictims/outreach4.htm Sexual Assault Victim Reimbursement: http://www.ag.state.ar.us/outreach/cvictims/outreach5.htm
OTHER	

CALIFORNIA

CONSTITUTION	http://www.leginfo.ca.gov/const.html (Searchable)
STATUTES	http://www.leginfo.ca.gov/calaw.html (Searchable)
CRIMINAL CODE	California Penal Code: http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=pen&codebody=&hits=20
SEXUAL ASSAULT/RAPE	Sexual Offenses at Cal. Penal Code §§ 261-269: http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=00001-01000&file=261-269
ADMINISTRATIVE RULES	California Code of Regulations: http://ccr.oal.ca.gov/
PUBLIC RECORDS LAWS	California Public Records Act (Cal. Govt. Code §§ 6250-6276.48): http://www.thefirstamendment.org/capra.html
RULES OF COURT	http://www.courtinfo.ca.gov/rules/
RULES OF EVIDENCE	California Evidence Code: http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=evid&codebody=&hits=20 Physician-Patient Privilege (Cal. Evid. Code §§ 990-1007): http://www.leginfo.ca.gov/cgi-bin/displaycode?section=evid&group=00001-01000&file=990-1007 Psychotherapist-Patient Privilege (Cal. Evid. Code §§ 1010-1027): http://www.leginfo.ca.gov/cgi-bin/displaycode?section=evid&group=01001-02000&file=1010-1027 SA Victim-Counselor Privilege (Cal. Evid. Code §§ 1035-1036.2): http://www.leginfo.ca.gov/cgi-bin/displaycode?section=evid&group=01001-02000&file=1035-1036.2 DV Victim-Counselor Privilege (Cal. Evid. Code §§ 1037-1037.8): http://www.leginfo.ca.gov/cgi-bin/displaycode?section=evid&group=01001-02000&file=1037-1037.8

VICTIMS' RIGHTS	California Victims' Bill of Rights (Cal. Const. Art. I, section 28): http://caag.state.ca.us/victimservices/content/bill_of_rights.htm http://caag.state.ca.us/victimservices/overview.htm
OTHER	

COLORADO

CONSTITUTION	http://www.sos.state.co.us/pubs/elections/2001_const.pdf
STATUTES	Colorado Revised Statutes: http://www.state.co.us/gov_dir/leg_dir/olls/HTML/colorado_revised_statutes.htm
CRIMINAL CODE	Criminal Code at Col. Rev. Stat. Title 18
SEXUAL ASSAULT/RAPE	Unlawful Sexual Behavior at Col. Rev. Stat. §§ 18-3-401 <i>et seq.</i>
ADMINISTRATIVE RULES	Code of Colorado Regulations: http://www.state.co.us/gov_dir/leg_dir/olls/HTML/rules.htm
PUBLIC RECORDS LAWS	Colorado AG FAQ on Open Records Law: http://www.colorado.gov/dpa/doit/archives/open/00openrec.htm
RULES OF COURT	http://www.courts.state.co.us/supct/rules/rulesindex.htm
RULES OF EVIDENCE	http://www.courts.state.co.us/supct/rules/rulesindex.htm
VICTIMS' RIGHTS	Colorado Crime Victims' Rights (Col. Const. Article II, section 16a; Col. Rev. Stat. §§ 24-4.1-101 to -304): http://www.doc.state.co.us/Sex%20Offenders/pdfs/The%20Colorado%20Victim%20Rights%20Amendment.pdf http://www.courts.state.co.us/exec/pubed/brochures/victimrights.pdf
OTHER	

CONNECTICUT

CONSTITUTION	http://www.sots.state.ct.us/RegisterManual/SectionI/ctconstit.htm
STATUTES	General Statutes of Connecticut: http://www.cga.ct.gov/asp/menu/Statutes.asp
CRIMINAL CODE	Connecticut Penal Code (Conn. Gen. Stat. Title 53a): http://www.cga.ct.gov/2001/pub/Title53a.htm
SEXUAL ASSAULT/RAPE	Sexual Offenses (Conn. Gen. Stat. §§ 53a-70 to -81): http://www.cga.ct.gov/2001/pub/Chap952.htm
ADMINISTRATIVE RULES	
PUBLIC RECORDS LAWS	Conn. Freedom of Information Act (Conn. Gen. Stat. Chapter 3): http://www.state.ct.us/foi/1998FOIA/1998IndexFOIA.htm
RULES OF COURT	
RULES OF EVIDENCE	Connecticut Code of Evidence: http://www.jud.state.ct.us/Publications/code2000.pdf
VICTIMS' RIGHTS	Connecticut Crime Victims' Rights: http://www.jud.state.ct.us/faq/crime-const-rights.htm
OTHER	Connecticut Judicial Branch Website: http://www.jud.state.ct.us/ Cameras in Connecticut Courts: http://www.ctbar.org/filemanager/download/21/medialaw_cameras%20in%20ct%20court.pdf Connecticut Handbook of Appellate Procedure: http://www.jud.state.ct.us/Publications/appellatehandbook.pdf

DELAWARE

CONSTITUTION	http://www.delcode.state.de.us/constitution/index.htm
STATUTES	Delaware Code: http://www.delcode.state.de.us/
CRIMINAL CODE	Delaware Crimes and Criminal Procedure (Del. Code Ann. Title 11): http://www.delcode.state.de.us/title11/index.htm#TopOfPage
SEXUAL ASSAULT/RAPE	Sexual Offenses at Del. Code Ann. Title 11, Chapter 5, §§ 761 <i>et seq.</i> : http://www.delcode.state.de.us/title11/c005/sc02/index.htm#P541_39044
ADMINISTRATIVE RULES	
PUBLIC RECORDS LAWS	Delaware Freedom of Information Act (Del. Code Ann. Title 29, §§ 10001-10005) http://www.state.de.us/attgen/civil/foia.htm
RULES OF COURT	http://courts.delaware.gov/Rules/
RULES OF EVIDENCE	Delaware Uniform Rules of Evidence: http://courts.delaware.gov/Rules/?uniform_rules.pdf Mental Health Provider, Physician and Psychotherapist-Patient Privilege at Rule 503
VICTIMS' RIGHTS	Delaware Victims' Bill of Rights (Del. Code Ann. Title 11, §§ 9401 <i>et seq.</i>): http://www.delcode.state.de.us/title11/c094/index.htm#TopOfPage
OTHER	Delaware Appellate Handbook: http://corporate-law.widener.edu/handbook/tofcont.htm

DISTRICT OF COLUMBIA

CONSTITUTION	
STATUTES	District of Columbia Code: http://dccode.westgroup.com/home/dccodes/default.wl
CRIMINAL CODE	Criminal Offenses and Penalties at D.C. Code Ann. Title 22
SEXUAL ASSAULT/RAPE	Sexual Offenses at D.C. Code Ann. §§ 22-30001 <i>et seq.</i>
ADMINISTRATIVE RULES	District of Columbia Register http://www.abfa.com/dcdocs/regndx.htm
PUBLIC RECORDS LAWS	
RULES OF COURT	
RULES OF EVIDENCE	
VICTIMS' RIGHTS	
OTHER	

FLORIDA

CONSTITUTION	http://www.flsenate.gov/Statutes/index.cfm?Mode=Constitution&Submenu=3&Tab=statutes
STATUTES	Florida Statutes: http://www.flsenate.gov/Statutes/index.cfm
CRIMINAL CODE	Florida Crimes (Fla. Stat. Title XLVI): http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Index&TitleRequest=XLVI#TitleXLVI
SEXUAL ASSAULT/RAPE	Sexual Battery (Fla. Stat. Title XLVI, Chapter 794): http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0794/tit0794.htm&StatuteYear=2003&Title=%2D%3E2003%2D%3EChapter%20794
ADMINISTRATIVE RULES	Florida Administrative Code: http://election.dos.state.fl.us/fac/index.shtml
PUBLIC RECORDS LAWS	Florida Government-In-The-Sunshine Law (Fla. Stat. Chapter 286) http://myfloridalegal.com/sunshine
RULES OF COURT	http://www.floridalawonline.net/courts.html#courtrules http://www.flabar.org/tfb/TFBLegalRes.nsf/D64B801203BC919485256709006A561C/E1A89A0DC5248D1785256B2F006CCCEE?OpenDocument
RULES OF EVIDENCE	Evidence Code (Fla. Stat. Title VII, Chapter 90): http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&URL=Ch0090/tit0090.htm&StatuteYear=2003&Title=%2D%3E2003%2D%3EChapter%2090 Psychotherapist-Patient Privilege (Fla. Stat. § 90.503): 2003->Ch0090->Section%20503">http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0090/SEC503.HTM&Title=->2003->Ch0090->Section%20503 Sexual Assault Counselor-Victim Privilege (Fla. Stat. § 90.5035): 2003->Ch0090->Section%205035">http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0090/SEC5035.HTM&Title=->2003->Ch0090->Section%205035

	Domestic Violence Advocate-Victim Privilege (Fla. Stat. § 90.5036): 2003->Ch0090->Section%205036">http://www.flsenate.gov/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=Ch0090/SEC5036.HTM&Title=->2003->Ch0090->Section%205036
VICTIMS' RIGHTS	http://www.myflorida.com/myflorida/government/governorinitiatives/victims_rights/florida_laws.html
OTHER	Florida Law Online: http://www.floridalawonline.net/

GEORGIA

CONSTITUTION	http://www.sos.state.ga.us/elections/constitution.htm
STATUTES	Georgia Code: http://www.legis.state.ga.us/legis/GaCode/index.htm http://www.legis.state.ga.us/cgi-bin/gl_codes_detail.pl?code=1-1-1
CRIMINAL CODE	Criminal Code of Georgia (Ga. Code Title 16): http://www.legis.state.ga.us/legis/GaCode/Title16.pdf
SEXUAL ASSAULT/RAPE	
ADMINISTRATIVE RULES	
PUBLIC RECORDS LAWS	Georgia Public Records Law (Ga. Code §§ 50-18-70 to -76): http://www.ganet.org/cgi-bin/pub/ocode/ocgsearch?docname=OCode/G/50/18/70 http://www.ganet.org/ago/open_govt.html
RULES OF COURT	Georgia Supreme Court Rules: http://www.georgiacourts.org/rules.html http://www.gasupreme.us/scrules01.html
RULES OF EVIDENCE	
VICTIMS' RIGHTS	Georgia Crime Victims Bill of Rights (Ga. Code §§ 17-17-1 <i>et seq.</i>): http://www.state.ga.us/cjcc/billofrights.html
OTHER	Court Media Rules (Supreme Court Rules 75-91): http://www.gasupreme.us/scrules01.html#media

HAWAII

CONSTITUTION	http://www.hawaii.gov/lrb/con/
STATUTES	Hawaii Revised Statutes: http://www.capitol.hawaii.gov/site1/docs/docs.asp?press1=docs (Searchable)
CRIMINAL CODE	
SEXUAL ASSAULT/RAPE	
ADMINISTRATIVE RULES	Administrative Rules: http://www.hawaii.gov/ltgov/office/adminrules/
PUBLIC RECORDS LAWS	Uniform Information Practices Act (Haw. Rev. Stat. Chapter 92F): http://www.state.hi.us/oip/uipa.html Sunshine Law (Haw. Rev. Stat. Chapter 92): http://www.state.hi.us/oip/sunshinelaw.html Haw. Admin. Rules Title 2, Chapter 71: http://www.state.hi.us/oip/rules.html
RULES OF COURT	http://www.courts.state.hi.us/page_server/LegalReferences/271A7DD039E757A8EAE7AD4B72.html
RULES OF EVIDENCE	Hawaii Rules of Evidence (Haw. Rev. Stat. Chapter 626): http://www.capitol.hawaii.gov/hrscurrent/Vol13_Ch0601-0675/HRS0626/HRS_0626-0001-0100.htm
VICTIMS' RIGHTS	
OTHER	

IDAHO

CONSTITUTION	http://www.idsos.state.id.us/elect/stcon/stconidx.htm http://www3.state.id.us/idstat/const/constTOC.html
STATUTES	Idaho Official Code: http://www3.state.id.us/idstat/TOC/idstTOC.html
CRIMINAL CODE	Idaho Crimes and Punishments (Idaho Code Title 18): http://www3.state.id.us/idstat/TOC/18FTOC.html
SEXUAL ASSAULT/RAPE	Rape (Idaho Code §§ 18-6101 <i>et seq.</i>): http://www3.state.id.us/idstat/TOC/18061KTOC.html Sex Crimes (Idaho Code §§ 18-6601 <i>et seq.</i>): http://www3.state.id.us/idstat/TOC/18066KTOC.html
ADMINISTRATIVE RULES	Idaho Administrative Code: http://www2.state.id.us/adm/adminrules/agyindex.htm
PUBLIC RECORDS LAWS	Idaho Public Records Law (Idaho Code §§ 9-337 to –350): http://www3.state.id.us/cgi-bin/newidst?sctid=090030037.K http://www3.state.id.us/idstat/TOC/09003KTOC.html AG Manual: http://www2.state.id.us/ag/manuals/publicrecords.pdf
RULES OF COURT	http://www2.state.id.us/judicial/rulestxt.htm
RULES OF EVIDENCE	http://www2.state.id.us/judicial/rules/evididx.htm Physician and Psychologist-Patient Privilege (Rule 503): http://www2.state.id.us/judicial/rules/evid503.rul Licensed Counselor-Client Privilege (Rule 517): http://www2.state.id.us/judicial/rules/evid517.rul Licensed Social Worker –Client Privilege (Rule 518): http://www2.state.id.us/judicial/rules/evid518.rul
VICTIMS' RIGHTS	Idaho Victims Rights Amendment (Idaho Const. art. 1, Section 22) and Idaho Code § 19-5306 Victims' Rights Manual: http://www2.state.id.us/ag/manuals/victimrights.pdf
OTHER	

ILLINOIS

CONSTITUTION	http://www.ilga.gov/commission/lrb/conmain.htm
STATUTES	Illinois Compiled Statutes: http://www.ilga.gov/legislation/ilcs/ilcs.asp
CRIMINAL CODE	Illinois Criminal Code (Ill. Comp. Stat. Chapter 720): http://www.ilga.gov/legislation/ilcs/ilcs2.asp?ChapterID=53
SEXUAL ASSAULT/RAPE	Illinois Sex Offenses (720 Ill. Comp. Stat. 5/11-6 <i>et seq.</i>): http://www.ilga.gov/legislation/ilcs/ilcs4.asp?DocName=072000050HArt%2E+11&ActID=1876&ChapAct=720%26nbsp%3BILCS%26nbsp%3B5%2F&ChapterID=53&ChapterName=CRIMINAL+OFFENSES&SectionID=60625&SeqStart=13300&SeqEnd=16600&ActName=Criminal+Code+of+1961%2E
ADMINISTRATIVE RULES	Illinois Administrative Code: http://www.cyberdriveillinois.com/departments/index/home.html
PUBLIC RECORDS LAWS	Illinois Freedom of Information Act (5 Ill. Comp. Stat. 140/1 <i>et seq.</i>) http://www.ag.state.il.us/government/foia_illinois.html
RULES OF COURT	http://www.state.il.us/court/SupremeCourt/Rules/
RULES OF EVIDENCE	
VICTIMS' RIGHTS	Illinois Const. Art. 1, Sec. 8.1: http://www.nvcn.org/cansil.html
OTHER	Researching Legislative History: http://www.ilga.gov/commission/lrb/lrbres.htm

INDIANA

CONSTITUTION	http://www.in.gov/legislative/ic/code/const/ http://www.law.indiana.edu/uslawdocs/inconst.html
STATUTES	Indiana Code: http://www.in.gov/legislative/ic/code/
CRIMINAL CODE	Criminal Law and Procedure at Ind. Code Title 35: http://www.in.gov/legislative/ic/code/title35/
SEXUAL ASSAULT/RAPE	Sex Crimes at Ind. Code §§ 35-42-4 <i>et seq.</i> : http://www.in.gov/legislative/ic/code/title35/ar42/ch4.html
ADMINISTRATIVE RULES	Indiana Administrative Code: http://www.in.gov/legislative/iac/
PUBLIC RECORDS LAWS	Indiana Commission on Public Records: http://www.in.gov/icpr/links/
RULES OF COURT	http://www.in.gov/judiciary/rules/
RULES OF EVIDENCE	http://www.in.gov/judiciary/rules/evidence/index.html
VICTIMS' RIGHTS	Ind. Const. Art. I, Sec. 13(b) and other laws at: http://www.clarkprosecutor.org/html/victim/viclaw.htm
OTHER	

IOWA

CONSTITUTION	http://www.legis.state.ia.us/Constitution.html
STATUTES	Iowa Code: http://www.legis.state.ia.us/IACODE/2003/
CRIMINAL CODE	Iowa Criminal Law and Procedure (Iowa Code Title XVI): http://www.legis.state.ia.us/IACODE/2003/XVI.html
SEXUAL ASSAULT/RAPE	Sex Abuse (Iowa Code Chapter 709): http://www.legis.state.ia.us/IACODE/2003/709/
ADMINISTRATIVE RULES	Iowa Administrative Code: http://www.legis.state.ia.us/IAC.html
PUBLIC RECORDS LAWS	Iowa Open Records Law (Iowa Code Chapter 22): http://www2.legis.state.ia.us/IACODE/1999/22/ Iowa AG Open Government Guide: http://www.iowaattorneygeneral.org/public_records/index.html
RULES OF COURT	http://www.legis.state.ia.us/Rules2.html
RULES OF EVIDENCE	Iowa Evidence Code (Iowa Code Chapter 622): http://www.legis.state.ia.us/IACODE/1999/622/ Communications in Professional Confidence (Iowa Code § 622.10): http://www2.legis.state.ia.us/IACODE/1999/622/10.html
VICTIMS' RIGHTS	
OTHER	

KANSAS

CONSTITUTION	http://skyways.lib.ks.us/KSL/ref/constitution/
STATUTES	Kansas Statutes: http://www.kslegislature.org/legsrv-statutes/index.do
CRIMINAL CODE	
SEXUAL ASSAULT/RAPE	
ADMINISTRATIVE RULES	
PUBLIC RECORDS LAWS	Kansas Open Records Act (Kan. Stat. Ann. §§ 45-215 <i>et seq.</i>) http://www.accesskansas.org/krc/krc_kora.html
RULES OF COURT	http://www.kscourts.org/ctruls/
RULES OF EVIDENCE	Kan. Stat. Ann. §§ 60-401 to -472: http://www.kslegislature.org/cgi-bin/statutes/index.cgi
VICTIMS' RIGHTS	Amendment for Victims' Rights (Kansas Const. Art. 14, Sec. 15): http://www.accesskansas.org/ksag/victims_assistance.htm Kansas Crime Victims' Bill of Rights (Kan. Stat. Ann. § 74-7333): http://crime.about.com/od/victims/qt/victims_ks.htm Protection from Stalking Act: http://www.kcsdv.org/PFSBrochure.html
OTHER	Media Coverage of Judicial Proceedings (Rule 1001): http://www.kscourts.org/ctruls/mediarul.htm

KENTUCKY

CONSTITUTION	http://www.lrc.state.ky.us/legresou/constitu/intro.htm
STATUTES	Kentucky Revised Statutes: http://www.lrc.state.ky.us/statrev/frontpg.htm (Searchable)
CRIMINAL CODE	Kentucky Penal Code at Ky. Rev. Stat. Title L, Chapter 500 <i>et seq.</i> http://www.lrc.state.ky.us/KRS/500-00/CHAPTER.HTM
SEXUAL ASSAULT/RAPE	Sexual Offenses at Ky. Rev. Stat. §§ 510.00 <i>et seq.</i> http://www.lrc.state.ky.us/KRS/510-00/CHAPTER.HTM
ADMINISTRATIVE RULES	Kentucky Administrative Regulations: http://www.lrc.state.ky.us/kar/frntpage.htm
PUBLIC RECORDS LAWS	Kentucky Open Records Act (Ky. Rev. Stat. §§ 61.870 to .884): Outline: http://www.law.state.ky.us/civil/OR-OM%20Outline.htm
RULES OF COURT	http://kyrules.west.thomson.com/home/kyrules/default.wl
RULES OF EVIDENCE	Kentucky Rules of Evidence: http://kyrules.west.thomson.com/home/kyrules/default.wl Counselor-Client Privilege (KRE 506) Psychotherapist-Patient Privilege (KRE 507)
VICTIMS' RIGHTS	Victims' Bill of Rights: http://www.law.state.ky.us/victims/rights.htm#Bill%20of%20Rights http://www.law.state.ky.us/victims/rights.htm
OTHER	

LOUISIANA

CONSTITUTION	http://senate.legis.state.la.us/Documents/Constitution/Default.htm
STATUTES	http://www.legis.state.la.us/
CRIMINAL CODE	
SEXUAL ASSAULT/RAPE	
ADMINISTRATIVE RULES	Louisiana Laws Search at http://www.legis.state.la.us/
PUBLIC RECORDS LAWS	Louisiana Public Records Laws (La. Rev. Stat. Title 44, Chapter 1):
RULES OF COURT	http://www.lasc.org/rules/
RULES OF EVIDENCE	Louisiana Laws Search at
VICTIMS' RIGHTS	Louisiana Crime Victim Bill of Rights (Louisiana Const. Art. I, Section 25): http://www.nvcan.org/cansla.html
OTHER	

MAINE

CONSTITUTION	http://www.state.me.us/sos/arc/general/constit/conscont.htm
STATUTES	Maine Revised Statutes: http://janus.state.me.us/legis/statutes/
CRIMINAL CODE	Maine Criminal Code (Me. Rev. Stat. Title 17-A): http://janus.state.me.us/legis/statutes/17-A/title17-Ach0sec0.html
SEXUAL ASSAULT/RAPE	Sex Assaults (Me. Rev. Stat. Title 17-A, §§ 251-260): http://janus.state.me.us/legis/statutes/17-A/title17-Ach11sec0.html
ADMINISTRATIVE RULES	http://www.state.me.us/sos/cec/rcn/apa/depts.htm
PUBLIC RECORDS LAWS	Maine Freedom of Access Law (Me. Rev. Stat. Title I, §§ 401 <i>et seq.</i>): http://janus.state.me.us/legis/statutes/1/title1ch13sec0.html http://www.mfoic.org/law.html
RULES OF COURT	http://www.courts.state.me.us/rules_forms_fees/rules/
RULES OF EVIDENCE	Maine Rules of Evidence: http://www.courts.state.me.us/rules_forms_fees/rules/MREvid%207-04.htm Physician & Psychotherapist-Patient Privilege (MRE 503)
VICTIMS' RIGHTS	http://www.state.me.us/corrections/VictimServices/VRights.htm
OTHER	

MARYLAND

CONSTITUTION	http://www.mdarchives.state.md.us/msa/mdmanual/43const/html/const.html
STATUTES	Maryland Code and Rules: http://government.westlaw.com/mdcode/
CRIMINAL CODE	At Maryland Code – Criminal Law
SEXUAL ASSAULT/RAPE	Sex Crimes at Maryland Code - Criminal Law, Md. Code Ann. §§ 3-301 <i>et seq.</i>
ADMINISTRATIVE RULES	Code of Maryland Regulations: http://www.dsd.state.md.us/comar/
PUBLIC RECORDS LAWS	Maryland Public Information Act (State Govt. Article §§ 10-611 to -628): http://www.oag.state.md.us/Opengov/pia.htm
RULES OF COURT	http://www.courts.state.md.us/rules/153ro.pdf
RULES OF EVIDENCE	Maryland Rules – Title 5 (Evidence), §§ 5-101 <i>et seq.</i>
VICTIMS' RIGHTS	Maine Const. Art. 47: http://www.nvcn.org/cansmd.html http://www.stephanieroper.org/
OTHER	Maryland Cameras in Courtroom Rules: http://www.courts.state.md.us/publications/cameras_in_ctroom.pdf

MASSACHUSETTS

CONSTITUTION	http://www.state.ma.us/legis/const.htm
STATUTES	General Laws of Massachusetts: http://www.state.ma.us/legis/laws/mgl/ (Searchable) http://www.lawlib.state.ma.us/mgl.html
CRIMINAL CODE	Massachusetts Crimes, Punishments and Proceedings in Criminal Cases (Mass. Gen. Laws., Part IV, Chapters 263 to 280) http://www.state.ma.us/legis/laws/mgl/gl-pt4-toc.htm
SEXUAL ASSAULT/RAPE	Sex Crimes at Mass. Gen. Laws, Part IV, Chapter 265, §§ 22-24: http://www.state.ma.us/legis/laws/mgl/265-22.htm
ADMINISTRATIVE RULES	Code of Massachusetts Regulations: http://www.lawlib.state.ma.us/cmr.html
PUBLIC RECORDS LAWS	Massachusetts Public Records Law (Mass. Gen. Laws., Part I, Title X, Chapter 66): http://www.state.ma.us/legis/laws/mgl/gl-66-toc.htm
RULES OF COURT	http://www.lawlib.state.ma.us/rules.html Appeals Court Rules of Procedure: http://www.state.ma.us/courts/courtsandjudges/courts/appealscourt/rules.html
RULES OF EVIDENCE	
VICTIMS' RIGHTS	Massachusetts Victim Bill of Rights (Mass. Gen. Laws, Chapter 258B) http://www.state.ma.us/mova/page89.html http://www.state.ma.us/mova/
OTHER	

MICHIGAN

CONSTITUTION	http://www.michiganlegislature.org/law/mileg.asp?page=getobject&objName=mcl-chap1 (Searchable)
STATUTES	Michigan Compiled Laws Index: http://www.michiganlegislature.org/mileg.asp?page=ChapterIndex
CRIMINAL CODE	Michigan Penal Code at Mich. Comp. Laws Chapter 750: http://www.michiganlegislature.org/mileg.asp?page=getObject&objName=mcl-chap750
SEXUAL ASSAULT/RAPE	Rape at Mich. Comp. Laws §§ 750.520a <i>et seq.</i> : http://www.michiganlegislature.org/mileg.asp?page=getObject&objName=mcl-750-520a&highlight=
ADMINISTRATIVE RULES	Michigan Administrative Code: http://www.michigan.gov/orr/0,1607,7-142-5698---,00.html
PUBLIC RECORDS LAWS	Michigan Freedom of Information Act (Mich. Comp. Laws § 15.231): http://www.michiganlegislature.org/mileg.asp?page=getObject&objName=mcl-Act-442-of-1976 http://www.michigan.gov/ag/0,1607,7-164-17337_18160-51242--,00.html
RULES OF COURT	http://courtofappeals.mijud.net/court/courtrules.htm
RULES OF EVIDENCE	http://courtofappeals.mijud.net/court/courtrules.htm
VICTIMS' RIGHTS	Constitutional Amendment for Crime Victims Rights (Mich. Const. Art. I, Section 24): http://www.michigan.gov/mdch/0,1607,7-132-2940_3184-16960--,00.html Crime Victims Rights Act (Mich. Comp. Laws § 780.751): http://www.michigan.gov/mdch/0,1607,7-132-2940_3184-16955--,00.html
OTHER	

MINNESOTA

CONSTITUTION	http://www.house.leg.state.mn.us/cco/rules/mncon/preamble.htm http://www.house.leg.state.mn.us/cco/rules/mncon/mncon.htm
STATUTES	Minnesota Statutes: http://www.leg.state.mn.us/leg/statutes.asp (Searchable)
CRIMINAL CODE	Minnesota Criminal Code (Minn. Stat. Chapter 609): http://www.revisor.leg.state.mn.us/stats/609/
SEXUAL ASSAULT/RAPE	Sex Crimes (Minn. Stat. §§ 609.341 to 609.351): http://www.revisor.leg.state.mn.us/stats/609/341.html
ADMINISTRATIVE RULES	http://www.revisor.leg.state.mn.us/arule/index.alpha.html
PUBLIC RECORDS LAWS	Minnesota Public Data Act: http://www.revisor.leg.state.mn.us/stats/13/
RULES OF COURT	http://www.courts.state.mn.us/rules/crt_rules.html
RULES OF EVIDENCE	Rules of Evidence (Minn. Stat. Chapter 480): http://www.revisor.leg.state.mn.us/stats/480/0591.html
VICTIMS' RIGHTS	http://www.ojp.state.mn.us/MCCVS/CVJU/rights.htm Minn. Stat. Chapter 611A: http://www.revisor.leg.state.mn.us/stats/611A/
OTHER	

MISSISSIPPI

CONSTITUTION	http://www.mscode.com/msconst/ http://www.olemiss.edu/depts/law_lib_research/laws/msconst.html http://www.sos.state.ms.us/ed_pubs/Constitution/ (Searchable)
STATUTES	Mississippi Code: http://www.sos.state.ms.us/pubs/MSCode/ (Searchable)
CRIMINAL CODE	Crimes at Miss. Code Title 97
SEXUAL ASSAULT/RAPE	Sex Crimes at Miss. Code Title 97, Chapter 3 (§§ 97-3-68 to -71)
ADMINISTRATIVE RULES	Mississippi Administrative Regulations: http://www.mscode.com/regs/regsin.htm
PUBLIC RECORDS LAWS	Mississippi Freedom of Information Act (Miss. Code § 25-61-1): http://www.deq.state.ms.us/MDEQ.nsf/page/ERC_foiaInquiries?OpenDocument
RULES OF COURT	http://www.mssc.state.ms.us/rules/default.asp
RULES OF EVIDENCE	http://www.mssc.state.ms.us/rules/RuleContents.asp?IDNum=4 Physician and Psychotherapist-Patient Privilege (Rule 503): http://www.mssc.state.ms.us/rules/RuleText.asp?RuleTitle=RULE+503%2E+PHYSICIAN+AND+PSYCHOTHERAPIST%2DPATIENT+PRIVILEGE&IDNum=4
VICTIMS' RIGHTS	Mississippi Const. Sect. 26(a) and Victims' Bill of Rights: http://www.msCasa.org/crime_victims_bill_of_rights.php
OTHER	

MISSOURI

CONSTITUTION	http://www.moga.state.mo.us/const/moconstn.htm http://www.moga.state.mo.us/homecon.asp (Searchable)
STATUTES	Missouri Revised Statutes: http://www.moga.state.mo.us/STATUTES/STATUTES.HTM http://www.moga.state.mo.us/homestat.asp (Searchable)
CRIMINAL CODE	Crimes at Mo. Rev. Stat. Title XXXVIII: http://www.moga.state.mo.us/STATUTES/STATUTES.HTM#T38
SEXUAL ASSAULT/RAPE	Missouri Sexual Offenses (Mo. Rev. Stat. Chapter 566): http://www.moga.state.mo.us/STATUTES/C566.HTM
ADMINISTRATIVE RULES	http://www.sos.mo.gov/adrules/
PUBLIC RECORDS LAWS	Missouri Sunshine Law (Mo. Rev. Stat. Chapter 610): http://ago.state.mo.us/sunshinelaw/chapter610.htm http://ago.state.mo.us/sunshinelaw/sunshinelaw.htm
RULES OF COURT	http://www.osca.state.mo.us/sup/index.nsf/0/c06ebdca9396f40f86256769005830c8?OpenDocument (Rules not officially available online)
RULES OF EVIDENCE	
VICTIMS' RIGHTS	Missouri Const. Art. I, section 32 and Mo. Rev. Stat. §§ 595.200 <i>et seq.</i> : http://www.ago.state.mo.us/crimevictims/crimevictims.htm http://www.ago.state.mo.us/publications/crimevictimsrights.pdf http://mova.missouri.org/morights.htm
OTHER	

MONTANA

CONSTITUTION	http://leg.state.mt.us/css/mtcode_const/const.asp
STATUTES	Montana Code Annotated: http://data.opi.state.mt.us/bills/mca_toc/index.htm
CRIMINAL CODE	Montana Crimes (Mont. Code Ann. Title 45): http://data.opi.state.mt.us/bills/mca_toc/45.htm
SEXUAL ASSAULT/RAPE	Montana Sex Crimes (Mont. Code Ann. §§ 45-5-501 <i>et seq.</i>): http://data.opi.state.mt.us/bills/mca_toc/45_5_5.htm
ADMINISTRATIVE RULES	Administrative Rules of Montana: http://sos.state.mt.us/css/ARM/ARM.asp
PUBLIC RECORDS LAWS	Montana Open Records Law (Mont. Code Ann. Title 2, Chapter 6): http://data.opi.state.mt.us/bills/mca_toc/2_6.htm
RULES OF COURT	http://www.lawlibrary.state.mt.us/dscgi/ds.py/View/Collection-1864
RULES OF EVIDENCE	Rules of Evidence: http://data.opi.state.mt.us/bills/mca_toc/26_10.htm
VICTIMS' RIGHTS	Mont. Const. Art. II, Section 28: http://www.nvcn.org/cansmt.html http://www.doj.state.mt.us/victims/default.asp
OTHER	

NEBRASKA

CONSTITUTION	http://statutes.unicam.state.ne.us/ (Searchable)
STATUTES	Revised Statutes of Nebraska: http://statutes.unicam.state.ne.us/ (Searchable)
CRIMINAL CODE	
SEXUAL ASSAULT/RAPE	
ADMINISTRATIVE RULES	http://www.sos.state.ne.us/business/rr_disc.html
PUBLIC RECORDS LAWS	
RULES OF COURT	http://court.nol.org/rules/
RULES OF EVIDENCE	Rules of Evidence (Neb. Rev. Stat. Chapter 27): http://www.state.ne.us/legislative/statutes/R/27/11/R2711001.html
VICTIMS' RIGHTS	Nebraska Const. Art. I, section 28: http://www.nvcn.org/cansne.html
OTHER	

NEVADA

CONSTITUTION	http://www.leg.state.nv.us/Const/NVConst.html
STATUTES	Nevada Revised Statutes: http://www.leg.state.nv.us/NRS/Index.cfm
CRIMINAL CODE	Crimes and Punishments at Nev. Rev. Stat. Title 15
SEXUAL ASSAULT/RAPE	Nevada Sex Crimes (Nev. Rev. Stat. §§ 200.364 – 200.3774): http://www.leg.state.nv.us/NRS/NRS-200.html
ADMINISTRATIVE RULES	http://www.leg.state.nv.us/NAC/
PUBLIC RECORDS LAWS	Nevada Open Records Act: http://www.leg.state.nv.us/NRS/NRS-239.html#NRS239
RULES OF COURT	http://www.leg.state.nv.us/CourtRules/
RULES OF EVIDENCE	Witnesses and Evidence at Nev. Rev. Stat. Title 4 Privileges at Chapter 49: http://www.leg.state.nv.us/NRS/NRS-049.html
VICTIMS' RIGHTS	Nev. Const. Art. I, Section 8 http://www.doc.nv.gov/victims/ http://www.nvcn.org/cansnv.html
OTHER	

NEW HAMPSHIRE

CONSTITUTION	http://www.state.nh.us/constitution/constitution.html
STATUTES	New Hampshire Revised Statutes: http://www.gencourt.state.nh.us/rsa/html/indexes/default.html (Searchable)
CRIMINAL CODE	New Hampshire Criminal Code (N.H. Rev. Stat. Title LXII): http://www.gencourt.state.nh.us/rsa/html/indexes/LXII.html
SEXUAL ASSAULT/RAPE	New Hampshire Sex Crimes (N.H. Rev. Stat. §§ 632-A:1 <i>et seq.</i>): http://www.gencourt.state.nh.us/rsa/html/indexes/632-A.html
ADMINISTRATIVE RULES	New Hampshire Code of Administrative Rules: http://www.gencourt.state.nh.us/rules/listagencies.html
PUBLIC RECORDS LAWS	New Hampshire Right to Know Law (N.H. Rev. Stat. Chapter 91-A): http://www.gencourt.state.nh.us/rsa/html/indexes/91-A.html http://doj.nh.gov/publications/right_to_know.html
RULES OF COURT	http://www.courts.state.nh.us/rules/index.htm
RULES OF EVIDENCE	Rules of Evidence: http://www.courts.state.nh.us/rules/evid/index.htm Patient's Privilege (Rule 503): http://www.courts.state.nh.us/rules/evid/evid-503.htm
VICTIMS' RIGHTS	
OTHER	

NEW JERSEY

CONSTITUTION	http://www.njleg.state.nj.us/lawsconstitution/consearch.asp (Searchable)
STATUTES	New Jersey Statutes: http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=51892400&depth=2&expandheadings=off&headingswithhits=on&infobase=statutes.nfo&softpage=TOC_Frame_Pg42
CRIMINAL CODE	New Jersey Code of Criminal Justice (N.J. Stat. Title 2C): http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=124651&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={140D}&softpage=Doc_Frame_PG42
SEXUAL ASSAULT/RAPE	N.J. Stat. §§ 2C:14-1 <i>et seq.</i> : http://lis.njleg.state.nj.us/cgi-bin/om_isapi.dll?clientID=124651&Depth=2&depth=2&expandheadings=on&headingswithhits=on&hitsperheading=on&infobase=statutes.nfo&record={140D}&softpage=Doc_Frame_PG42
ADMINISTRATIVE RULES	New Jersey Administrative Rules – not available online http://www.state.nj.us/oal/rules.html
PUBLIC RECORDS LAWS	New Jersey Open Public Records Act (N.J. Stat. Title 47): http://www.nj.gov/opra/
RULES OF COURT	http://www.judiciary.state.nj.us/rules/rules_toc.htm
RULES OF EVIDENCE	
VICTIMS' RIGHTS	New Jersey Const. Art. I, ¶ 22 and Crime Victims Bill of Rights: http://www.state.nj.us/lps/dcj/victimwitness/const.htm http://www.state.nj.us/lps/dcj/victimwitness/cbor.htm
OTHER	

NEW MEXICO

CONSTITUTION	http://www.harbornet.com/rights/newmexio.txt
STATUTES	New Mexico Statutes Annotated: http://nxt.ella.net/NXT/gateway.dll?f=templates\$fn=default.htm\$vid=nm:all
CRIMINAL CODE	Criminal Offenses at N.M. Stat. Ann. Chapter 30
SEXUAL ASSAULT/RAPE	Sexual Offenses at N.M. Stat. Ann. §§ 30-9-1 <i>et al.</i>
ADMINISTRATIVE RULES	New Mexico Administrative Code: http://www.nmcpr.state.nm.us/nmac/
PUBLIC RECORDS LAWS	New Mexico Public Records Act (N.M. Stat. Ann. §§ 14-3-1 <i>et al.</i>): http://www.nmcpr.state.nm.us/#statutes
RULES OF COURT	
RULES OF EVIDENCE	http://jec.unm.edu/resources/judicial_handbook/evidence/evidence1.htm
VICTIMS' RIGHTS	New Mexico Const. Sec. 24: http://www.nvcn.org/cansnm.html
OTHER	

NEW YORK

CONSTITUTION	http://assembly.state.ny.us/leg/?co=0 http://www.state.ny.us/nyscon/nyscon.html
STATUTES	New York Consolidated Laws: http://www.senate.state.ny.us/
CRIMINAL CODE	New York Penal Law Information: http://wings.buffalo.edu/law/bclc/web/cover.htm
SEXUAL ASSAULT/RAPE	
ADMINISTRATIVE RULES	http://www.dos.state.ny.us/info/register.htm
PUBLIC RECORDS LAWS	Freedom of Information Law: http://www.dos.state.ny.us/coog/foil.html
RULES OF COURT	New York Court of Appeals Rules of Practice: http://www.courts.state.ny.us/ctapps/500rules.htm New York Unified Court System Website: http://www.courts.state.ny.us/home.htm
RULES OF EVIDENCE	
VICTIMS' RIGHTS	http://www.oag.state.ny.us/crime/bill_of_rights.html http://www.oag.state.ny.us/crime/crime.html
OTHER	

NORTH CAROLINA

CONSTITUTION	http://www.ncga.state.nc.us/Legislation/constitution/ncconstitution.html http://statelibrary.dcr.state.nc.us/nc/stgovt/preconst.htm
STATUTES	North Carolina General Statutes: http://www.ncleg.net/gascripts/Statutes/StatutesTOC.pl
CRIMINAL CODE	Criminal Law (N.C. Gen. Stat. Chapter 14): http://www.ncleg.net/gascripts/Statutes/StatutesTOC.pl?0014
SEXUAL ASSAULT/RAPE	North Carolina Rape and Related Offenses (N.C. Gen. Stat. §§ 14-27.1 <i>et al.</i>): http://www.nccasa.org/Resources/LegalResources/statutes.pdf
ADMINISTRATIVE RULES	North Carolina Administrative Code: http://ncrules.state.nc.us/ncadministrativ /default.htm
PUBLIC RECORDS LAWS	North Carolina Public Records Law (N.C. Gen. Stat. Chapter 132): http://www.ncga.state.nc.us/statutes/generalstatutes/html/bychapter/chapter_132.html
RULES OF COURT	http://www.ncpress.com/publicrecordslaw.html
RULES OF EVIDENCE	
VICTIMS' RIGHTS	N.C. Const. Art. I, Sec. 37 and N.C. Gen. Stat. §§ 15A-830 <i>et al.</i>) http://www.nc-van.org/victims_rights/rights_declaration.asp http://www.nc-van.org/victims_rights/the_act.asp http://www.nc-van.org/
OTHER	

NORTH DAKOTA

CONSTITUTION	http://www.state.nd.us/lr/information/statutes/const-laws.html
STATUTES	North Dakota Century Code: http://www.state.nd.us/lr/information/statutes/cent-code.html http://www.state.nd.us/lr/information/statutes/const-laws.html
CRIMINAL CODE	North Dakota Criminal Code (N.D. Cent. Code Title 12.1): http://www.state.nd.us/lr/cencode/t121.html
SEXUAL ASSAULT/RAPE	North Dakota Sex Offenses at N.D. Cent. Code Title 12.1 Chapter 20
ADMINISTRATIVE RULES	North Dakota Administrative Code: http://www.state.nd.us/lr/information/rules/admincode.html
PUBLIC RECORDS LAWS	
RULES OF COURT	
RULES OF EVIDENCE	
VICTIMS' RIGHTS	North Dakota Crime Victims' Rights (N.D. Cent. Code §§ 12.1-34): http://www.ndcrimevictims.org/rights.htm
OTHER	

OHIO

CONSTITUTION	http://www.legislature.state.oh.us/constitution.cfm (Searchable)
STATUTES	Ohio Revised Code: http://onlinedocs.andersonpublishing.com/oh/lpExt.dll?f=templates&fn=main-h.htm&cp=PORC
CRIMINAL CODE	Crimes at Ohio Rev. Code Title XXIX
SEXUAL ASSAULT/RAPE	Sex Offenses at Ohio Rev. Code §§ 2907 <i>et al.</i>
ADMINISTRATIVE RULES	Ohio Administrative Code: http://onlinedocs.andersonpublishing.com/oh/lpExt.dll?f=templates&fn=main-h.htm&cp=OAC
PUBLIC RECORDS LAWS	
RULES OF COURT	http://www.sconet.state.oh.us/Rules/
RULES OF EVIDENCE	http://www.sconet.state.oh.us/Rules/evidence/default.asp
VICTIMS' RIGHTS	Ohio Const. Art. I, Section 10a and Ohio Rev. Code § 2930: http://www.ag.state.oh.us/sections/crime_victims_services/assistance_program.htm http://www.ag.state.oh.us/online_publications/crime_victims_services/picking_up_the_pieces.pdf http://crimevictimservices.org/images/OhVictimRights/law20010723.pdf
OTHER	

OKLAHOMA

CONSTITUTION	http://oklegal.onenet.net/okcon/ http://www.lsb.state.ok.us/
STATUTES	Oklahoma Statutes: http://www.lsb.state.ok.us/
CRIMINAL CODE	
SEXUAL ASSAULT/RAPE	
ADMINISTRATIVE RULES	Oklahoma Administrative Code: http://www.oar.state.ok.us/oar/codedoc02.nsf/frmMain?OpenFrameSet&Frame=Main&Src=75tnm2shfcdnm8pb4dthj0chedppmcbq8dtmmak31ctijujrgcln50ob7ckj42tbkdt374obdcli00
PUBLIC RECORDS LAWS	
RULES OF COURT	http://www.oscn.net/applications/oscn/index.asp?ftdb=STOKRU&level=1
RULES OF EVIDENCE	
VICTIMS' RIGHTS	Okla. Const. Art. II, section 34 and Okla. Stat. Title 19, § 215.33: http://www.oag.state.ok.us/oagweb.nsf/Vbillofrights!OpenPage http://www.oag.state.ok.us/oagweb.nsf/vrights!OpenPage http://www.oag.state.ok.us/oagweb.nsf/VServices?OpenPage
OTHER	

OREGON

CONSTITUTION	http://www.leg.state.or.us/orcons/home.html
STATUTES	Oregon Revised Statutes: http://www.leg.state.or.us/ors/
CRIMINAL CODE	
SEXUAL ASSAULT/RAPE	Offenses Against Persons (Or. Rev. Stat. Chapter 163) http://www.leg.state.or.us/ors/163.html
ADMINISTRATIVE RULES	Oregon Administrative Rules: http://arcweb.sos.state.or.us/banners/rules.htm
PUBLIC RECORDS LAWS	Public Records and Meetings Laws: http://www.doj.state.or.us/pros/pros_mli.htm
RULES OF COURT	http://www.ojd.state.or.us/Web/OJDPublications.nsf/Rules?OpenView&count=1000
RULES OF EVIDENCE	Evidence Code at Or. Rev. Stat. Chapter 40
VICTIMS' RIGHTS	Or. Const. Art. I, Sections 42 and 43 and Or. Rev. Stat. Chapter 147: http://www.doj.state.or.us/CrimeV/crimevictimsrights.pdf http://www.doj.state.or.us/CrimeV/welcome1.htm
OTHER	

PENNSYLVANIA

CONSTITUTION	http://sites.state.pa.us/PA_Constitution.html
STATUTES	Pennsylvania Consolidated Statutes: http://members.aol.com/StatutesPA/Index.html
CRIMINAL CODE	Pennsylvania Crimes (Pa. Cons. Stat. Title 18): http://members.aol.com/StatutesPA/18.html
SEXUAL ASSAULT/RAPE	Pennsylvania Sexual Offenses (Pa. Cons. Stat. Title 18, Part II, Chapter 31): http://members.aol.com/StatutesP1/18.Cp.31.html
ADMINISTRATIVE RULES	Pennsylvania Code of Regulations: http://www.pacode.com/secure/browse.asp
PUBLIC RECORDS LAWS	Pennsylvania Right-to-Know Law (65 P.S. §§ 66.1-66.9): http://www.oig.state.pa.us/inspgen/cwp/view.asp?a=3&Q=160324
RULES OF COURT	http://members.aol.com/StatutesPA/Index.html
RULES OF EVIDENCE	http://www.pacode.com/secure/data/225/225toc.html
VICTIMS' RIGHTS	Pennsylvania Victim Bill of Rights: http://www.pbpp.state.pa.us/ova/site/default.asp
OTHER	

RHODE ISLAND

CONSTITUTION	http://www.rilin.state.ri.us/gen_assembly/RiConstitution/riconst.html
STATUTES	Rhode Island General Laws: http://www.rilin.state.ri.us/Statutes/Statutes.html
CRIMINAL CODE	Criminal Offenses (R.I. Gen. Laws Title 11): http://www.rilin.state.ri.us/Statutes/TITLE11/INDEX.HTM
SEXUAL ASSAULT/RAPE	Sexual Assault (R.I. Gen. Laws Chapter 11-37): http://www.rilin.state.ri.us/Statutes/TITLE11/11-37/INDEX.HTM
ADMINISTRATIVE RULES	Code of Rhode Island Rules: http://www.rules.state.ri.us/rules/
PUBLIC RECORDS LAWS	Rhode Island Access to Public Records Law (R.I. Gen. Laws Chapter 38-2): http://www.rilin.state.ri.us/Statutes/TITLE38/38-2/INDEX.HTM
RULES OF COURT	
RULES OF EVIDENCE	
VICTIMS' RIGHTS	Rhode Island Crime Victims' Rights (R.I. Const. Article I, Section 23): http://www.rilin.state.ri.us/gen_assembly/RiConstitution/C01.htm http://www.rijustice.state.ri.us/voca/
OTHER	

SOUTH CAROLINA

CONSTITUTION	http://www.harbornet.com/rights/s-carol.txt
STATUTES	South Carolina Code of Laws: http://www.scstatehouse.net/code/statmast.htm
CRIMINAL CODE	Crimes and Offenses (Title 16): http://www.scstatehouse.net/code/tit16.htm
SEXUAL ASSAULT/RAPE	S.C. Code Ann. Title 16, Article 7 (§§ 16-3-615 <i>et seq.</i>) http://www.scstatehouse.net/code/t16c003.htm
ADMINISTRATIVE RULES	Administrative compilation at S.C. Code Ann. Volumes 23-27
PUBLIC RECORDS LAWS	South Carolina Freedom of Information Act (S.C. Code Ann. §§ 30-4-10 <i>et seq.</i>): http://www.scpres.org/foia/foialaw.html
RULES OF COURT	http://www.judicial.state.sc.us/courtReg/index.cfm
RULES OF EVIDENCE	http://www.judicial.state.sc.us/courtReg/listEVDRules.cfm
VICTIMS' RIGHTS	S.C. Const. Article I, Section 24: http://www.scattorneygeneral.org/public/rights.html S.C. Code Ann. §§ 16-3-1505 <i>et seq.</i> : http://www.scvan.org/article15.html
OTHER	

SOUTH DAKOTA

CONSTITUTION	South Dakota Constitution and Codified Laws: http://legis.state.sd.us/statutes/index.cfm (Searchable)
STATUTES	South Dakota Constitution and Codified Laws: http://legis.state.sd.us/statutes/index.cfm (Searchable)
CRIMINAL CODE	Crimes (S.D. Codified Laws Title 22): http://legis.state.sd.us/statutes/Index.cfm?FuseAction=DisplayStatute&FindType=Statute&txtStatute=22
SEXUAL ASSAULT/RAPE	Sex Offenses (S.D. Codified Laws §§ 22-22-1 <i>et seq.</i>): http://legis.state.sd.us/statutes/index.cfm?FuseAction=DisplayStatute&FindType=Statute&txtStatute=22-22
ADMINISTRATIVE RULES	Administrative Rules of South Dakota: http://legis.state.sd.us/rules/index.cfm
PUBLIC RECORDS LAWS	List of Public Records Laws: http://www.state.sd.us/attorney/office/openness/doc.htm Government Openness Task Force: http://www.state.sd.us/attorney/office/openness/default.asp
RULES OF COURT	South Dakota Supreme Court Rules: http://www.sdjudicial.com/index.asp?category=events&nav=552
RULES OF EVIDENCE	
VICTIMS' RIGHTS	South Dakota Crime Victims' Rights (S.D. Codified Laws §§ 23A-28C-1 <i>et seq.</i>) http://www.state.sd.us/social/CVC/rights.htm http://www.state.sd.us/corrections/FAQ_Victims_Rights.htm
OTHER	

TENNESSEE

CONSTITUTION	http://www.legislature.state.tn.us/senate/Publications/TNConstitution.pdf http://www.state.tn.us/sos/bluebook/online/section5/tnconst.pdf
STATUTES	Tennessee Code: http://198.187.128.12/tennessee/lpext.dll?f=templates&fn=fs-main.htm&2.0
CRIMINAL CODE	
SEXUAL ASSAULT/RAPE	Sexual Offenses at Tenn. Code Ann. §§ 39-13-501 <i>et seq.</i>
ADMINISTRATIVE RULES	Tennessee Rules and Regulations: http://www.state.tn.us/sos/rules/rules2.htm
PUBLIC RECORDS LAWS	
RULES OF COURT	http://www.tsc.state.tn.us/opinions/tsc/rules/TNrulesofcourt/rulesindex.htm
RULES OF EVIDENCE	http://www.tsc.state.tn.us/opinions/tsc/rules/TNrulesofcourt/evidence.htm
VICTIMS' RIGHTS	Tenn. Const. Article I, Section __: http://www.attorneygeneral.org/vicrigh.html http://www.nvcan.org/canstn.html
OTHER	

TEXAS

CONSTITUTION	http://www.capitol.state.tx.us/txconst/toc.html (Searchable)
STATUTES	http://www.capitol.state.tx.us/statutes/statutes.html (Searchable)
CRIMINAL CODE	Texas Penal Code: http://www.capitol.state.tx.us/statutes/petoc.html
SEXUAL ASSAULT/RAPE	Texas Sexual Offenses (Texas Penal Code, Title 5, Chapter 21): http://www.capitol.state.tx.us/statutes/docs/PE/content/htm/pe.005.00.000021.00.htm
ADMINISTRATIVE RULES	Texas Administrative Code: http://www.sos.state.tx.us/tac/index.shtml
PUBLIC RECORDS LAWS	Public Records Act Information (Tex. Gov't Code Chapter 522): http://www.oag.state.tx.us/opinopen/opengovt.shtml
RULES OF COURT	http://www.supreme.courts.state.tx.us/rules/
RULES OF EVIDENCE	http://www.supreme.courts.state.tx.us/rules/tre/
VICTIMS' RIGHTS	Texas Crime Victims' Rights (Tex. Crim. Proc. Code Chapter 56, Sub. A (on rights of crime victims) and Tex. Fam. Code Chapter 57 (on rights of victims of juvenile crime)): http://www.tdcj.state.tx.us/victim/victim-billrights.htm
OTHER	

UTAH

CONSTITUTION	http://www.le.state.ut.us/~code/const/const.htm (Searchable)
STATUTES	Utah Code: http://www.le.state.ut.us/~code/code.htm (Searchable)
CRIMINAL CODE	Utah Criminal Code (Utah Code Title 76): http://www.le.state.ut.us/~code/TITLE76/TITLE76.htm
SEXUAL ASSAULT/RAPE	
ADMINISTRATIVE RULES	Utah Administrative Code: http://www.rules.utah.gov/ http://www.code-co.com/utah/admin/admcode.htm
PUBLIC RECORDS LAWS	Utah Government Records Access and Management Law (Utah Code Ann. §§ 63-2-101 <i>et seq.</i>): http://www.le.state.ut.us/%7Ecode/TITLE63/63_01.htm http://archives.utah.gov/recmanag/govlaw.htm
RULES OF COURT	http://www.utcourts.gov/resources/rules/
RULES OF EVIDENCE	http://www.utcourts.gov/resources/rules/ure/index.htm Physician and Mental Health Therapist-Patient Privilege (Rule 506): http://www.utcourts.gov/resources/rules/ure/0506.htm
VICTIMS' RIGHTS	Utah Crime Victims' Rights (Article 1, Section 28 and Utah Code Title 77, Chapter 38) http://www.nvcn.org/cansut.html http://www.le.state.ut.us/~code/TITLE77/77_30.htm
OTHER	Model Utah Jury Instructions for Sex Crimes http://users.mstar2.net/dmower/SCAC_criminal/litigation_section/sexcrimes.pdf

VERMONT

CONSTITUTION	http://www.leg.state.vt.us/statutes/const2.htm
STATUTES	Vermont Statutes: http://www.leg.state.vt.us/statutes/statutes2.htm
CRIMINAL CODE	Crimes and Criminal Procedure (Vt. Stat. Ann. Title 13): http://www.leg.state.vt.us/statutes/chapters.cfm?Title=13
SEXUAL ASSAULT/RAPE	Sexual Assault (Vt. Stat. Ann. Title 13, Chapter 72): http://www.leg.state.vt.us/statutes/sections.cfm?Title=13&Chapter=072
ADMINISTRATIVE RULES	
PUBLIC RECORDS LAWS	Vermont Public Records and Right to Know Summary: http://vermont-archives.org/records/right-to-know/overview.html
RULES OF COURT	http://www.vermontjudiciary.org/rules/
RULES OF EVIDENCE	
VICTIMS' RIGHTS	Vermont Crime Victims' Rights (Vt. Stat. Ann. Vol. 13 §§ 5301-5318 and Vol 28 § 7006; and Vt. R. Crim. P. § 1 5-f) http://www.ccvs.state.vt.us/rights.html
OTHER	Vermont Law: http://www.sec.state.vt.us/municipal/vtlaw.html

VIRGINIA

CONSTITUTION	http://legis.state.va.us/Laws/Constitution.htm (Searchable)
STATUTES	Virginia Code: http://legis.state.va.us/Laws/CodeofVa.htm (Searchable)
CRIMINAL CODE	Crimes and Offenses (Va. Code Title 18.2): http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC1802000
SEXUAL ASSAULT/RAPE	Rape (Va. Code § 18.2-61): http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+18.2-61
ADMINISTRATIVE RULES	Virginia Administrative Code: http://legis.state.va.us/Laws/AdminCode.htm
PUBLIC RECORDS LAWS	Virginia Freedom of Information Act (Va. Code § 2.2-3700 <i>et seq.</i>) http://dls.state.va.us/groups/foiacouncil/03Law.htm Virginia Freedom of Information Council: http://dls.state.va.us/foiacouncil.htm
RULES OF COURT	Virginia Courts Website: http://www.courts.state.va.us/main.htm
RULES OF EVIDENCE	
VICTIMS' RIGHTS	Virginia Crime Victims' Rights (Const. Art. 1, Section 8-A; Va. Code Title 19.2) http://www.dcjs.org/victims/documents/legislation/2001VictimsRightsLaws.pdf
OTHER	

WASHINGTON

CONSTITUTION	http://www.courts.wa.gov/education/constitution/
STATUTES	Revised Code of Washington: http://www.leg.wa.gov/rcw/index.cfm
CRIMINAL CODE	Washington Criminal Code (Wash. Rev. Code Title 9A): http://www.leg.wa.gov/rcw/index.cfm?fuseaction=title&title=9A
SEXUAL ASSAULT/RAPE	Washington Sex Offenses (Wash. Rev. Code Chapter 9A.44): http://www.leg.wa.gov/RCW/index.cfm?fuseaction=chapterdigest&chapter=9A.44
ADMINISTRATIVE RULES	Washington Administrative Code: http://www.leg.wa.gov/wac/
PUBLIC RECORDS LAWS	
RULES OF COURT	http://www.courts.wa.gov/court_rules/
RULES OF EVIDENCE	http://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=ga&set=ER
VICTIMS' RIGHTS	Washington Crime Victims' Rights (Wash. Const. Article 1, Sec. 35 and Wash. Rev. Code §§ 7.68-69): http://www.metrokc.gov/proatty/Victim/Rights.htm
OTHER	

WEST VIRGINIA

CONSTITUTION	http://www.harbornet.com/rights/w-virgin.txt
STATUTES	West Virginia Code: http://www.legis.state.wv.us/WVCODE/masterfrm3Banner.cfm (Searchable)
CRIMINAL CODE	Crimes and Punishments (W. Va. Code Chapter 61): http://www.legis.state.wv.us/WVCODE/61/masterfrm2Frm.htm
SEXUAL ASSAULT/RAPE	
ADMINISTRATIVE RULES	West Virginia Code of State Rules: http://www.wvsos.com/csr/
PUBLIC RECORDS LAWS	
RULES OF COURT	West Virginia Court Rules: http://www.state.wv.us/wvsca/rules/rulesindex.htm
RULES OF EVIDENCE	
VICTIMS' RIGHTS	Crime Victims Compensation Fund (W. Va. Code §§ 14-2A-1 <i>et seq.</i>): http://www.legis.state.wv.us/Joint/victims/main.cfm
OTHER	

WISCONSIN

CONSTITUTION	http://www.legis.state.wi.us/rsb/2wiscon.html
STATUTES	Wisconsin Statutes: http://www.legis.state.wi.us/rsb/stats.html
CRIMINAL CODE	Criminal Code at Wis. Stat. Chapters 938-951
SEXUAL ASSAULT/RAPE	Sexual Assault (Wis. Stat. § 940.225): http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=2419524687&infobase=stats.nfo&jump=ch.%20940
ADMINISTRATIVE RULES	Wisconsin Administrative Code: http://www.legis.state.wi.us/rsb/code/
PUBLIC RECORDS LAWS	Public Records Law: http://www.doj.state.wi.us/dls/spar.asp#pubrec
RULES OF COURT	http://www.wisbar.org/rules/
RULES OF EVIDENCE	Evidence Rules at Wis. Stat. Chapters 901-911 Privileges at Chapter 905: http://folio.legis.state.wi.us/cgi-bin/om_isapi.dll?clientID=283696012&infobase=stats.nfo&jump=ch.%20905
VICTIMS' RIGHTS	Wis. Const. Art. I, Section 9m and Wis. Stat. Chapter 950: http://www.doj.state.wi.us/cvs/
OTHER	Rules Governing Electronic Media and Still Photography Coverage of Judicial Proceedings: http://www.wicourts.gov/sc/scrule/DisplayDocument.pdf?content=pdf&seqNo=1099

WYOMING

CONSTITUTION	http://soswy.state.wy.us/informat/const.htm
STATUTES	Wyoming Statutes: http://legisweb.state.wy.us/statutes/statutes.htm
CRIMINAL CODE	Crimes and Offenses (Wyo. Stat. Ann. Title 6): http://legisweb.state.wy.us/statutes/sub6.htm
SEXUAL ASSAULT/RAPE	Sexual Assault (Wyo. Stat. Ann. §§ 6-2-301 <i>et seq.</i>): http://legisweb.state.wy.us/statutes/titles/title06/c02a03.htm
ADMINISTRATIVE RULES	Administrative Rules: http://soswy.state.wy.us/rules/rules.htm
PUBLIC RECORDS LAWS	Public Records Act (Wyo. Stat. Ann. §§ 16-4-201 <i>et seq.</i>): http://legisweb.state.wy.us/statutes/titles/title16/c04a02.htm
RULES OF COURT	http://courts.state.wy.us/wyoming_court_rules.htm
RULES OF EVIDENCE	http://courts.state.wy.us/RULES/11Wyoming_Rules_of_Evidence.html
VICTIMS' RIGHTS	
OTHER	