



Know Your Rights: *A guide for victims of crime*

The Office of Victim Services (OVS) helps crime victims. You can reach OVS by telephone, by email or online:

Telephone: 1-800-247-8035

Email: ovsinfo@ovs.ny.gov

Online: www.ovs.ny.gov

OVS also has two offices:

80 South Swan St., Second Floor
Albany, NY 12210
(518) 457-8727

55 Hansen Place, 10th Floor
Brooklyn, NY 11217
(718) 923-4325

If you wish to visit an OVS office, you must call to make an appointment.

Visit <https://ovs.ny.gov/locate-program> to search for a victim assistance program (VAP) using your zip code or name of the county where you live.

The District Attorney's (DA's) office also may refer you to a victim assistance program. If you have questions about a criminal case, visit <https://www.nypti.org/new-york-district-attorneys/> to find the DA's Office in your county.

Once you have a contact in the DA's office, write it here for future reference:

DA name: _____

Email: _____

Phone Number: _____

Address: _____

Website: _____

How can victims of crime get financial help?

OVS may pay costs you had because of the crime, including: the repair or replacement of essential personal property; loss of earnings or support; medical bills, including the cost of counseling; vocational rehabilitation; crime scene clean-up; or funeral bills.

To get help, you must file a claim with OVS. You can get a claim form from a police department or sheriff's office, a victim advocate, hospital emergency room, or online (www.ovs.ny.gov). Claims must be filed within one year from when the crime happened. If a victim died, the claim must be filed within one year of the date of death.

Victim advocates can help you with filing a claim. You can also get help from rape crisis centers, domestic violence programs or shelters, and other victim assistance programs.

Any payments from the following sources may reduce benefits provided by OVS:

- Insurance, Veteran's or Social Security benefits;
- Worker's compensation benefits if the crime happened at work, including payment for:
 - medical care and physical therapy,
 - lost wages,
 - disability benefits, or
 - death benefits;
- Filing a civil lawsuit.

If you are the victim of a crime:

You have the right to know what is happening in your criminal case.

You have the right to know how the case is being handled. To stay informed you ***must*** give your phone number and address to the DA and update this information when it changes. You should be told:

- the date someone is arrested;
- the date that person sees a judge for the first time;
- when that person is out of jail;
- when someone pleads guilty to the crime;
- the date of trial;
- the date of sentencing; and
- the possible sentence.

You have the right to attend court.

The prosecutor (another name for DA, the lawyer handling the case against someone who has been arrested) may ask you to stay away from court because of how they plan to handle your case. But, even if you are asked to stay away, you have the right to be in court.

You have rights while defendants are facing trial.

You may ask the police or prosecutor to contact your employer if you must miss work to help with the case. The police or prosecutor also should help by giving creditors information about the crime if you can't pay your bills because of the crime.

Property held as evidence must be given back to you unless it is needed for proof at trial. The court will help to return property promptly.

You have the right to be free from intimidation.

Crime victims have the right to be protected from threats, physical injury or other forms of intimidation. The police department, sheriff's office or DA/prosecutor can give advice about how to protect yourself. Courts can issue orders of protection that direct the accused to stay away from you.

Intimidating a witness is a felony. Felonies are crimes for which a person can be sentenced to more than one year in prison. If you are threatened or harassed, immediately contact the police, sheriff's office, or DA/prosecutor.

If you receive unwanted contact after the individual is in prison, contact the Office of Victim Assistance at the New York State Department of Corrections and Community Supervision (1-800-783-6059) right away. Witnesses and victims may get help in relocating and changing their identities if needed.

If possible, when waiting to go into court, prosecution witnesses shall be provided a secure waiting area separate from all other witnesses.

You have the right to let law enforcement, the courts and the Parole Board know how you think and feel about the crime and how it affected you.

This is called making a victim impact statement. This statement allows you to share your feelings about the crime, how it affected you and your family, and what you think the defendant owes you. You may make these statements when the defendant is sentenced or eligible for parole.

The DA/prosecutor will ask what you think about releasing the defendant and about sentences other than prison. The court shall consider your views at sentencing.

At least 10 days in advance, you may ask to speak when the defendant is sentenced. You must let the court know you want to do this. You may speak about anything that relates to the possible sentence. If the victim of the crime is a minor, has died or been hurt and can't be in court, a relative may speak for the victim. You may make your statement in person at sentencing, or in writing as part of a pre-sentence report.

When a defendant is eligible for parole, you can also make a statement to the Parole Board. You may meet face-to-face with a member of the Parole Board, make your statement in writing, or make an audio or video recording of your statement. The defendant would not be at any face-to-face meeting.

You have the right to ask the DA to let you know how the case ended.

When making this request, ask for the "final disposition" of the case: was the person found guilty or not. You will get an answer within 60 days of when the case ended.

The Office of Victim Assistance at the state Department of Corrections and Community Supervision can answer questions about individuals sentenced to state prison. You may get information on these individuals — including when they will be sentenced — by:

- Calling VINE (Victim Information and Notification Everyday) at 1-888-846-3469 or 1-888-VINE4NY and providing the:
 - Inmate's full name,
 - date of birth, and
 - NYS ID number or the ID number assigned by the Department of Corrections and Community Supervision.
- *Note:* The DA's office will provide the NYS ID number and/or the inmate's date of birth.
- Visit <http://nysdoccslookup.doccs.ny.gov/kinqw00> to search for an inmate by name, NYSID number or other identifying information.

You have the right to know when an inmate is released.

You can sign up for telephone, text or email notifications from VINE: Call 1-888-846-3469, 1-888-VINE4NY or visit www.vinelink.com to be told when a person is released from custody. VINE also provides other notifications such as an inmate's death, furlough, escape, and return to custody after an escape.

You also can register to be told when an inmate will go before the Parole Board and before an inmate is released. If you want to be told when an inmate is scheduled to go before the Parole Board or scheduled to be released, you must:

- Ask the DA's office for the form to make this request; complete it and then return it to the DA's office; or
- Complete the form online: www.doccs.ny.gov/DOCCSWebVictimNotification.aspx

You must complete this form to be informed of the chance to make a Parole Victim Impact statement. Registering with VINE alone will not inform you about this.

For additional questions about victim notification or making a Parole Victim Impact Statement, call the Department of Corrections and Community Supervision Office of Victim Assistance at 800-783-6059.

Other things you should know about your rights:

- You may always have a free copy of the police report.
- You can ask the Department of Motor Vehicles to waive fees for replacing licenses, permits, registrations, and license plates lost, destroyed or stolen because of a crime.
- Employers cannot fire or punish you because you:
 - were a witness in court;
 - took time to give a statement to the Parole Board, or
 - helped the DA.

- These rights apply to:
 - the next of kin of victims who died,
 - representatives of victims, and
 - Good Samaritans, who are people who tried to help victims even though it was not their job, i.e., they are not police, firefighters, etc.

Violating this law is a misdemeanor. Your employer may decide, however, not to pay you for the time you spent away from work while involved in any of these activities.

- Victims can ask that a person convicted of a felony sexual offense be ordered to be tested for HIV. Requests must be in writing and must be filed with the court. A representative can act for a minor victim or someone a court has determined cannot handle his or her personal affairs. The test results are given to the victim and the defendant; they are not disclosed to the court.
- The Court may order the identifying information of a person applying for a name change sealed if publishing this information might put the person at risk.

Restitution: Your Right to be Paid Back

As a victim, you can ask that the defendant pay you back for what you lost due to the crime. This is known as restitution and it is not paid for future losses or pain and suffering.

Restitution must be part of a defendant's sentence. The amount paid to you will be based on proof of what you lost because of the crime.

- Keep records and receipts of any costs you have due to the crime, and
- Give copies of those records and receipts to the police, DA and Probation Department. Your claim for restitution will be part of the report that the Probation Department files with the court.

If you do not provide this information in time to be part of the defendant's sentence, you may be able to get repaid by suing the defendant.

You can ask for, but are not limited to:

- medical and counseling costs,
- loss of earnings,
- replacing, repair or cleaning of property,
- funeral costs, and
- any other cost you incurred because of the crime.

The defendant can object and the court may hold a hearing on your request. The DA may ask you to testify at that hearing. If you are worried about being in court, you should talk to the DA.

A judge will usually order the defendant to pay you back. If the judge does not order repayment, he or she must clearly state why, on the record. The restitution order will be on the inmate's commitment paper, which is the written instruction from the court directing the convicted person to be put in jail or prison.

The agency responsible for collecting repayment is listed on the restitution order. Payments are required to be made as ordered and will be made by check. You must provide a current address and update your address information if it changes.

Restitution from minors or persons in need of supervision (PINS) must be ordered by the Family Court. Repayment from juvenile delinquents is limited to \$1,500, and \$1,000 from PINS. To seek additional restitution, victims may file a lawsuit against the minor's parents or guardians.

If OVS has paid your bills and the court orders restitution, that repayment may be made to OVS, not you. If you filed a claim with OVS, it is important that you tell OVS if the court orders repayment.

Certain victims of crime have additional rights under the law.

Rights of Child Victims:

1. Describing the crime as few times as needed;
2. A judge sensitive to the stress a child may experience testifying;
3. The same prosecutor handling the case whenever possible;
4. The use of video-recording or two-way closed-circuit TV when acting as a witness;
5. A support person when acting as a witness in court;
6. Using dolls and drawings when acting as a witness;
7. A team of people from various fields to address child abuse.

Rights of Victims of Domestic Violence:

1. An Order of Protection, which is an order of a court that requires one person to stay away from another person. Orders of protection are served at no cost. Criminal courts can give such orders to anyone while Family Court is limited to giving such orders to:

- relatives,
- former spouses, or
- people who are not related but have an "intimate relationship."

The judge will decide if a relationship is "intimate;" non-sexual relationships can be "intimate."

2. An arrest made by police if:

- Police find that your abuser committed a **felony** against you, they must make an arrest.
- An **Order of Protection has been violated**. This is true even if the order of protection was issued in another county, state, territory or tribal jurisdiction.
- Police determine that a **misdemeanor** has been committed against you, unless you ask them not to. Even if you make that request, police may still make the arrest. Misdemeanors are crimes for which a person can be sentenced for up to one year in jail.

3. When police believe that more than one family or household member committed a misdemeanor family offense, they are not required to arrest more than one person. In such cases, police must try to determine who is most responsible and arrest that individual.

4. If the police do not witness the violation or do not make an arrest, you can make a civilian arrest.

- This does not mean that you must physically make the arrest. It means that you must sign a complaint.
- Police may either take your abuser into custody or give you information on how to get the court to take some action.

5. In addition to making arrests, police can help you:

- Get to a safe place: victims of domestic violence can get emergency residential services;
- Get information on how the court can help protect you;
- Get medical care;
- Get personal belongings from your home;
- Get a free copy of any incident reports; and
- File a complaint in Criminal Court.

6. You may either place or temporarily lift a “freeze” on your credit report free of charge. To do this you must a) write to the credit reporting agency, and b) give proof you are a victim of domestic violence by providing one of the following:

- a domestic violence incident report (called a DIR),
- a police report,
- an order of protection, or
- an affidavit of a medical provider or of a victim advocate

Credit reporting agencies must not share the reason for the request.

7. To be treated fairly by an employer or licensing agency in hiring or employment practices.

8. Avoid forced contact with your abuser.

9. Request a new telephone number, at no cost.

Rights of Victims of Rape or Sexual Assault:

1. To be informed in writing of the name, address and phone number of the nearest rape crisis center;
2. To be in a private setting when being interviewed;
3. To limit people in the interview to:
 - those conducting the interview,
 - a social worker, rape crisis counselor, psychologist or other professional providing emotional support, and
 - the victim's parents, spouse or friend if requested by the victim.
4. To not be asked or required to take a lie detector test or stress exam.

5. To have OVS pay for a medical exam related to a sexual assault. In addition:
 - Examiners and facilities must accept the state's set fee as payment in full.
 - Victims may assign insurance benefits to the examination provider.
 - If victims assign insurance benefits, such coverage is not subject to annual deductibles or co-pays or balance billing by the provider.¹
 - However, victims may choose not to provide insurance information to the examination provider if concerned about privacy or safety.
6. To have clothes returned upon request.
7. Hospitals providing emergency treatment:
 - shall provide information on the availability of emergency contraception, its use and how well it works;
 - must provide emergency contraception, unless the victim refuses or if the victim is pregnant.
 - must offer victims a trained sexual assault advocate during the examination.
8. To have sexual offense evidence collected and kept in a locked, separate and secure area for 20 years from the date of collection. Victims will be notified at least three months before the end of the 20-year period that the evidence will be discarded.

¹ For all insurance policies and contracts issued, renewed, modified, altered or amended on or after January 1, 2019.