

# Georgia Department of Public Safety

## Policy Manual

<b>SUBJECT</b> <b>VICTIM/WITNESS ASSISTANCE</b>	<b>POLICY NUMBER</b> <b>21.03</b>
<b>DISTRIBUTION</b> <b>ALL EMPLOYEES</b>	<b>REVISED DATE</b> <b>8/3/2018</b>
	<b>POLICY REVIEWED</b> <b>8/3/2018</b>

### 21.03.1 Purpose

To ensure that victims and witnesses of crimes investigated by the Georgia Department of Public Safety are provided with the information mandated by the "Crime Victim's Bill of Rights" as set forth in Title 17, Chapter 17 of the Official Code of Georgia Annotated (O.C.G.A.).

### 21.03.2 Policy

Sworn personnel shall strive to ensure that all victims and/or witnesses of crimes are treated with fairness, compassion, and dignity. Whenever possible, the Georgia Department of Public Safety (DPS) shall defer responsibility for victim/witness services to the law enforcement agency having original jurisdiction over the crime that has occurred. The DPS shall work cooperatively with and assist members of the Victim/Witness Assistance Programs which are under the direction of the respective District Attorney's offices and/or other responsible agencies.

### 21.03.3 Procedures

#### A. Crime Victim's Bill of Rights

1. A victim or witness to a crime has certain rights that have been recognized by the Georgia General Assembly and set forth in the "Crime Victim's Bill of Rights." Victimization shall be the result of at least one of the following types of offenses:
  - a. Homicide;
  - b. Assault and battery;
  - c. Kidnapping, false imprisonment, etc;
  - d. Reckless conduct;
  - e. Cruelty to children;
  - f. Feticide;
  - g. Sexual offenses;
  - h. Burglary;

- i. Arson;
  - j. Theft;
  - k. Armed robbery;
  - l. Interference with custody;
  - m. Stalking;
  - n. Robbery;
  - o. Hijacking;
  - p. Hazing;
  - q. Criminal tattooing;
  - r. Criminal body piercing;
  - s. Reckless abandonment;
  - t. Sexual exploitation of a child;
  - u. Homicide by vehicle;
  - v. Feticide by vehicle, or
  - w. Serious injury by vehicle.
2. The "Crime Victim's Bill of Rights" also outlines the obligations of law enforcement agencies as they relate to crime victims and/or witnesses. Upon initial contact with a victim, the following are required of all law enforcement and court personnel. The victim(s) shall be advised that:
- a. The accused may be released from custody prior to trial.
  - b. They have certain rights during the various stages of the criminal justice process.
  - c. Additional information may be obtained by contacting the involved state and/or local law enforcement agency or by contacting the Criminal Justice Coordinating Council (CJCC).
  - d. If they are the innocent victim of a violent crime, or the survivor of an innocent victim of a violent crime, they may be eligible for certain out-of-pocket expenses from the Crime Victim's Compensation Program.
  - e. They may have available to them community based service programs and for additional information they can contact the Governor's Victim Assistance Help line at 1-800-338-6745. Referral information is available from the help line 24 hours per day, seven days a week.
  - f. They shall meet any applicable obligations such as providing a current telephone number and address in order to be contacted. (The specific requirements are set forth in O.C.G.A. § 17-17-5 and 17-17-14.)

3. O.C.G.A. § 17-17-7 further requires that whenever possible, the investigating law enforcement agency shall give to the victim prompt notification of the arrest of an accused.
4. The "Crime Victim's Bill of Rights" further outlines the obligations of prosecuting attorneys as they relate to crime victims and/or witnesses. Upon initial contact with a victim, a prosecuting attorney shall give prompt notification to the victim of the following:
  - a. The procedural steps in processing a criminal case;
  - b. The rights and procedures of victims under this chapter;
  - c. Suggested procedures if the victim is subjected to threats or intimidation, and
  - d. The names and telephone numbers of contact persons at both the office of the custodial authority and in the prosecuting attorney's office.
5. If requested in writing by the victim and to the extent possible, the prosecuting attorney shall give prompt advance notification of any scheduled court proceedings and notice of any changes to that schedule. Court proceedings shall include, but not be limited to, pretrial commitment hearings, arraignment, motion hearings, trial, sentencing, appellate review, and post-conviction relief. The prosecuting attorney shall notify all victims of the requirement to make such requests in writing.

#### B. Coordination Responsibilities

1. O.C.G.A. § 17-17-6 designates the CJCC as the coordinating entity between various law enforcement agencies, the courts, and social service delivery agencies. Responsibilities of CJCC include the development and dissemination of written information for utilization by law enforcement agencies in achieving compliance with applicable statutes of the "Crime Victim's Bill of Rights".
2. A comprehensive "Directory of Victim Assistance Providers and Services in Georgia" is available through both the CJCC ([www.cjcc.georgia.gov](http://www.cjcc.georgia.gov)) and the Governor's Victim Assistance Help line. A current copy of the directory shall be maintained in DPS Communications Centers for reference in the event of misdirected telephone calls or other instances in which this information might be needed.

#### C. Agency Responsibilities

1. Personnel having direct principal contact with a victim or witness shall ensure that the agency's requirements of the "Crime Victim's Bill of Rights" are carried out.
2. Personnel are responsible for determining if the law enforcement agency that has original jurisdiction over the crime has made or is going to make the required notifications.
3. The notification to victims/witnesses of their rights under the "Crime Victim's Bill of Rights" is primarily the responsibility of local law enforcement agencies. However, personnel are responsible for maintaining and distributing copies of the "Crime Victim Compensation Program" pamphlets disseminated by the CJCC

and any other issued material to victims of the above identified crimes when the local law enforcement agency has, for whatever reason, failed to make the required notifications.

4. When the DPS is the principal investigative or arresting agency, the trooper/officer shall be responsible for informing the victim/witness of the following information:
  - a. Trooper/Officer's name and office telephone number;
  - b. DPS case/Accident Report number, if known;
  - c. General information regarding the handling of the investigation, and
  - d. Telephone number where the victim/witness may call to report additional information about the case or to receive information about the status of the case.
5. Personnel shall afford reasonable consideration and assistance to victims and witnesses in cases in which DPS is the principal investigative or arresting agency.
  - a. When possible, line-ups, interviews, and other required appearances shall be scheduled at the convenience of the victim/witness.
  - b. When possible, the DPS shall promptly return victim/witness property taken as evidence. The return of such property shall be handled in accordance with applicable laws and/or rules of evidence and after consultation with the appropriate prosecuting attorney. Contraband, weapons used in the commission of a crime, and property over which ownership is in dispute shall be disposed of in accordance with applicable laws, and in accordance with advice obtained from the District Attorney's office having jurisdiction over the case. If questions arise with regard to this issue, the investigating trooper/officer should seek guidance from Legal Services.
  - c. Contact should be made with the appropriate District Attorney's office regarding the assignment of a Victim Witness Assistance Program advocate, if available, to provide assistance to the victim/witness during the follow-up investigation and any subsequent prosecution of the criminal offense.
6. Personnel shall take all reasonable steps consistent with applicable state laws to ensure the confidentiality of victims/witnesses involved in the investigation of criminal offenses. Where apparent conflicts arise regarding Open Records requirements and protection of the confidentiality of victims/witnesses, sworn members should contact the Legal Services Division for guidance.
7. Appropriate assistance shall be provided, to the extent possible, to victims and/or witnesses who have been threatened or who express specific, credible reasons for fearing intimidation or further victimization. The assistance provided shall be based upon the severity and nature of the threat and the availability of required resources.
8. Whenever a sworn member becomes aware of a threat directed against or the attempted intimidation of a victim/witness in a DPS investigation, the sworn member shall document the information in writing and notify their immediate supervisor.

9. The Post/Unit Supervisor shall ensure that:
  - a. A follow-up investigation is initiated, if appropriate;
  - b. Unless extenuating circumstances exist, the investigating Department member or another trooper/officer/law enforcement officer is immediately assigned to attempt to contact and alert the victim/witness and provide information on steps available to law enforcement authorities to protect those persons from intimidation or further victimization, and
  - c. Notification is made to the appropriate prosecuting attorney and guidance requested regarding legal remedies and possible prosecution of the offender(s).

D. Public Information

Upon request, the Director of Public Information shall assist the Criminal Justice Coordinating Council, and the District Attorney's offices located throughout the state in their efforts to inform the public and media of services available through the State of Georgia and/or other community based service programs.