

VICTIMS' RIGHTS BRIEF

For Arizona's Justice System Administrators, Practitioners and Advocates

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Fiscal Year Mid-Term Complaint Review

In FY 2005 and 2006, the Office of Victim Services compiled a spreadsheet of all substantiated violations reported to the Enforcement Officer from 1995 to 2005. The intention of the report was to create a basis for future tracking of violations and the most recurrent complaints each year. While the report is a starting point, finding 116 violations of 42 agencies, the actual number of violations is possibly higher due to ten years of varied statistical tracking. Starting FY 2006, the Enforcement Officer documented and tracked every complaint, investigation, and violation that came through the office.

For FY 2006, there were 18 total violations among 10 agencies. The amount of complaints that came into the office numbered 138. The scope of complaints ranged from:

- not being allowed to confer with the prosecutor regarding a plea,
- failure to return evidence to a victim,
- failure to provide victim opt-in form,
- lack of communication on proceedings/release dates,
- failure to reschedule hearings when victims were not notified,
- and declining a case without providing a victim the right to confer before a case is declined.

FY 2007 has seen a shift in the actual complaints coming through the office. To date, there have been four complaints that are pending violation status (still open) and the office has received 84 total complaints. Where FY 06 responded to predominantly prosecutorial complaints, for FY 07, victims are coming forward with concerns and frustration over judge's roles in upholding victims' rights. While most court requirements are in conjunction with the prosecutor's responsibilities, recently some courts have been making decisions despite prosecutor's reminding about victims' rights. Most complaints recently have revolved around:

- the victims right to be present at proceedings,
- hearings being scheduled too quickly or merging two hearings which does not allow for proper victim notification,
- the right of the victim to be heard at sentencing,
- post arrest custody decisions,
- and probation modification, revocation, disposition, or termination proceedings.

The remaining complaints received are similar to the FY 2006 list, which serves as a reminder that every agency, every case, for every victim, has a responsibility to uphold every victims' right.

Announcements:

UPDATE ON CASE LAW!!!!!!!

Hot off the presses!

As many may be aware, the Arizona Court of Appeals in *State of Arizona ex rel. Thomas v. Klein*, --- P.3d. --- (2007) issued its opinion that the definition of “criminal offense” set forth in A.R.S. § 13-4401(6) and A.R.S. § 8-381 unconstitutionally limits the categories of victims protected by the Victims' Bill of Rights. This means **that victims of all misdemeanor offenses** shall be afforded the same constitutional and statutory rights as those rights afforded to victims of felony offenses. Agencies should begin to address any policy and procedural implications as this goes into effect January 11, 2007 when the case law came down. Please, contact our office with any questions or concerns regarding the implementation of this case law. This is mandated, thus must be in practice.

In other news...

Next year, for National Crime Victims' Rights Awareness Week (April 22-28, 2007), OVS is interested in coordinating a statewide effort to enlighten and engage the public about victims' rights. If your agency is interested in joining forces or if you have ideas you need support with, please contact Mel Williams at 602.542.8409. Activities we are in the process of planning:

- Statewide essay and poster contest
- State agency cooperative ceremony
- Attorney General recognition ceremony
- Ribbon distribution

The Office of Victim Services has extended the site visits mandated for Victim Rights' Program funded agencies to any agency responsible for victims' rights in Arizona. If your agency is interested in having a training site visit, to see where you compare against other agencies, please contact Mel Williams at 602.542.8409 to schedule an appointment. All site visits are being completed between January and May of 2007.



The Victims' Rights Brief is published by the Arizona Attorney General's Office of Victim Services, which remains wholly responsible for its content. Questions regarding content can be directed to Mel Burton at (602) 542-8409. To learn more about victims' rights via the internet, email us at victimrights@azag.gov or visit us at www.azag.gov