

1: Restitution for Fraud Victims - Getting Money Back After Being Scammed

Including crime victims' rights in state constitutions increases the strength, permanence, and enforceability of victims' rights. Some state amendments include a few broadly worded rights, while others provide a long list of rights for victims.

She was watching him walk away when he turned, snapped his fingers and marched back. She turned away from him. Moments later she heard a pistol cock next to her head. She said he forced her to the backyard of an abandoned house, made her undress, and shot her in the gut. He dragged her under the vacant building and raped her in a filthy crawlspace, she said. Then, he walked away. She made her way to an ambulance hours later after performing a grim mental calculus: She passed out for most of her ambulance ride and some time at the hospital, as doctors worked to remove a bullet that pierced her liver and colon, fragmented and lodged a quarter-inch from her spine. It would be almost two years more before she discovered it was destroyed, discarded by police in She said she reported her assault to police at the time, but her case was closed less than a year later. To find out it once existed, and to find out it was gone “it was devastating. For decades, tens of thousands of boxes of DNA evidence that nurses meticulously gathered from the bodies and clothing of sex assault victims sat stacked in storage rooms, ignored. As scrutiny of disregarded rape kits mounted, a portrait of a more difficult to tally sort emerged “rape kits police destroyed. As with the rape kit backlog, there is no national tally of the kits police destroyed. But increasingly, local media have published reports of police destroying rape kits in states as disparate as Utah, Kentucky and Colorado. In , in Aurora, Colorado, police department workers derailed a prosecution when they destroyed a rape kit from a assault. The error was discovered when a detective got a hit on an offender DNA profile, went to pick up the rape kit and was told it no longer existed. Shortly thereafter, police stopped all evidence destruction while they investigated, and found workers destroyed evidence in 48 rape cases between and In Salt Lake City , of the kits collected between and were destroyed. Of those, just 59 were tested and went to court. In Kentucky, the state auditor discovered some police departments routinely destroyed rape kits after a year, even though the state had no statute of limitations for rape. The perpetrators could have been prosecuted as long as they were alive. That national database was designed to serve as a bank of DNA from both suspects and from crime scenes. Studying evidence retention policies was one of her first projects when she started at the agency in , she said. Most state lawmakers, she said, fail to provide guidance on when to test and retain crime scene evidence, which in the case of a sexual assault is a rape kit. Alabama, for example, collects DNA from everyone arrested for any felony, and from people arrested for some misdemeanor sex crimes. But the state has no statute governing how long police should keep DNA evidence collected from crime scenes, such as rape kits, according to the National Conference of State Legislatures and the National Center for Victims of Crime both in Experts said about half of states have laws to tell police how long to preserve evidence, everything from DNA to handguns involved in serious crimes, but even those tend to focus on keeping evidence after conviction. That leaves unsolved crimes in legal limbo. This kind of statute, advocates say, provides greater protection not just for victims of crimes but for the wrongfully convicted. States lacking evidence retention laws are not split between liberal or conservative, nor are they geographically grouped. They span from Vermont to Tennessee and from Pennsylvania to Utah. Beginning in , the Violence Against Women Act required states accepting grant money to provide a way for women to undergo a rape exam without reporting a crime to police. VAWA also allowed states to determine how long to keep those kits, who offers them and where they are kept. For example, in Florida, policies for how long to keep anonymous rape kits varied widely between crisis centers where they were collected. A former police chief, Michael Berkow, told the Denver Post in that the loss of her evidence was a failure. An earlier version misspelled Savannah-Chaitham.

2: Victimology - Wikipedia

Victims generally have the right to receive information about victims' rights, victim compensation (see "Right to Apply for Compensation," below), available services and resources, how to contact criminal justice officials, and what to expect in the criminal justice system.

Criminal Appeals Process Criminal Appeals Process Criminal defendants have the right to appeal decisions by judges and juries, and victims can learn where and when the appeals will be heard. Here are the answers to basic questions about how the North Carolina criminal appeals process works: May a person convicted of a crime in North Carolina challenge that conviction by an appeal? In most cases, a criminal defendant has a right to appeal his or her conviction and sentence to the appellate courts of North Carolina. When may a criminal defendant appeal a conviction? A defendant may give notice of appeal orally in open court or in writing within 14 days after the judge sentences him or her. How much time does it take to appeal a conviction? The appeals process can be very lengthy, lasting several months or years. How can I make sure that I am notified about an appeal? What is the first step in the appeals process? First, a transcript written record of the trial must be prepared by a court reporter. In a capital case the defendant has been convicted of first degree murder and sentenced to death, the court reporter has days to prepare the transcript. In a non-capital case, the court reporter has 60 days to prepare the transcript. Courts may grant extensions of time, often 30 days. What is the next step in the appeals process? The Record on Appeal explains possible legal errors that may have kept the defendant from getting a fair trial or sentence. Who is involved in preparing the Record on Appeal? After receiving the Record, a prosecutor has 21 days to respond in a non-capital case or 35 days in a capital case. How long does it take for the Record on Appeal to be settled? Who receives the Record on Appeal? Once the Record is settled, it must be filed in the proper appellate court. Printed copies are sent to the Attorney General, who represents the State of North Carolina in appellate court. What happens after the Record on Appeal is filed? How much time does it take before an appellate court reviews the Record on Appeal? After the Clerk of the Appellate Court mails the printed Record to both parties, the defendant has 30 days 60 days in a capital case to file a brief, which is a written legal argument, in support of the legal errors raised in the Record. Which court decides an appeal? In capital cases, appeals go directly to the Supreme Court of North Carolina and are heard by all seven justices. In non-capital cases, appeals go to the North Carolina Court of Appeals and are heard by a panel of three judges out of a total of 15 judges. How is an appeal presented to the Court? In an oral argument, attorneys present information to the court verbally. No witnesses testify and no evidence is presented. Each side has 30 minutes to argue, which is strictly limited to the legal errors raised in the Record on Appeal and in the briefs. If oral argument will be held, it is usually scheduled within several months after the State files its brief. Oral argument is almost always held in the Supreme Court, while oral argument is not held in most Court of Appeals cases. How long does it take for an appeal to be decided by the Court? An appellate court may issue its opinion, or decision, in as little as a month or as long as a year or more. The average time period is 6 months, but there is no time limit. Length of time does not indicate what kind of decision the court will reach. Opinions are available on the Internet at the Administrative Office of the Courts. The Court of Appeals issues opinions on the first and third Tuesday of each month. The Supreme Court issues opinions once each month, usually during the first or second week of the month. Unlike a jury verdict, an appellate court decision does not have to be unanimous. A majority decides the case. That means that a Court of Appeals case can be decided by two out of three judges, and a Supreme Court case can be decided by four out of seven justices. Judges or justices who disagree with the majority decision are said to dissent from the opinion. How does a defendant win an appeal? If the appellate court were to find that prejudicial unfair error s occurred during the trial, the court would set aside or reverse the conviction, vacate the judgment, and remand, or send back, the case to the trial court for a new trial. The District Attorney decides whether or not to prosecute a new trial. If the appellate court were to find that prejudicial error s occurred during sentencing, the court would uphold the conviction but remand the case to trial court for a new sentencing hearing. How does a defendant lose an appeal? If an appeal is denied, can a defendant appeal again? If a Court of Appeals decision

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is not unanimous, the losing side has the right to appeal to the Supreme Court. If there is no dissent and no constitutional question, the losing side may petition the Supreme Court for discretionary review of the case. What laws protect victims during the appeals process in North Carolina? North Carolinians who need medical attention or who miss work because they were the victims of a crime may also qualify for compensation. Through the Crime Victims Compensation Act, North Carolina established a fund to help victims recover the costs of medical care and lost wages. For additional information, please contact Victims Compensation Services toll free at or Contact the Rape Victims Assistance Program at This nonprofit agency provides information and assistance for victims and family members of crime victims.

3: HIV & AIDS Information :: Immigration legislation - Limited and indefinite leave

The T nonimmigrant visa allows victims to remain in the United States to assist in the investigation or prosecution of human traffickers. Once a T nonimmigrant visa is granted, a victim can apply for permanent residence after three years.

Definitional issues[edit] Rights are widely regarded as the basis of law, but what if laws are bad? Some theorists suggest civil disobedience is, itself, a right, and it was advocated by thinkers such as Henry David Thoreau , Martin Luther King Jr. There is considerable disagreement about what is meant precisely by the term rights. It has been used by different groups and thinkers for different purposes, with different and sometimes opposing definitions, and the precise definition of this principle, beyond having something to do with normative rules of some sort or another, is controversial. One way to get an idea of the multiple understandings and senses of the term is to consider different ways it is used. Many diverse things are claimed as rights: What actions or states or objects the asserted right pertains to: Rights of free expression, to pass judgment; rights of privacy, to remain silent; property rights, bodily rights. Why the rightholder allegedly has the right: Moral rights spring from moral reasons, legal rights derive from the laws of the society, customary rights are aspects of local customs. The inalienable right to life, the forfeitable right to liberty, and the waivable right that a promise be kept. Natural versus legal[edit] Main article: Natural and legal rights Natural rights are rights which are "natural" in the sense of "not artificial, not man-made", as in rights deriving from human nature or from the edicts of a god. They are universal; that is, they apply to all people, and do not derive from the laws of any specific society. For example, it has been argued that humans have a natural right to life. These are sometimes called moral rights or inalienable rights. An example of a legal right is the right to vote of citizens. Citizenship , itself, is often considered as the basis for having legal rights, and has been defined as the "right to have rights". Legal rights are sometimes called civil rights or statutory rights and are culturally and politically relative since they depend on a specific societal context to have meaning. Some thinkers see rights in only one sense while others accept that both senses have a measure of validity. There has been considerable philosophical debate about these senses throughout history. For example, Jeremy Bentham believed that legal rights were the essence of rights, and he denied the existence of natural rights; whereas Thomas Aquinas held that rights purported by positive law but not grounded in natural law were not properly rights at all, but only a facade or pretense of rights. Claim versus liberty[edit] A deed is an example of a claim right in the sense that it asserts a right to own land. This particular deed dates back to Claim rights and liberty rights A claim right is a right which entails that another person has a duty to the right-holder. Somebody else must do or refrain from doing something to or for the claim holder, such as perform a service or supply a product for him or her; that is, he or she has a claim to that service or product another term is thing in action. This duty can be to act or to refrain from acting. Likewise, in jurisdictions where social welfare services are provided, citizens have legal claim rights to be provided with those services. Liberty rights and claim rights are the inverse of one another: For example, a person has a liberty right to walk down a sidewalk and can decide freely whether or not to do so, since there is no obligation either to do so or to refrain from doing so. Positive versus negative[edit] Main article: Negative and positive rights In one sense, a right is a permission to do something or an entitlement to a specific service or treatment from others, and these rights have been called positive rights. However, in another sense, rights may allow or require inaction, and these are called negative rights; they permit or require doing nothing. For example, in some countries, e. In other countries, e. Positive rights are permissions to do things, or entitlements to be done unto. One example of a positive right is the purported "right to welfare. Often the distinction is invoked by libertarians who think of a negative right as an entitlement to non-interference such as a right against being assaulted. Individual versus group[edit] Main article: Individual and group rights The general concept of rights is that they are possessed by individuals in the sense that they are permissions and entitlements to do things which other persons, or which governments or authorities, can not infringe. This is the understanding of people such as the author Ayn Rand who argued that only individuals have rights, according to her philosophy known as Objectivism. Individual rights are rights held by individual people regardless of their group membership or lack thereof. Do

groups have rights? Some argue that when soldiers bond in combat, the group becomes like an organism in itself and has rights which trump the rights of any individual soldier. Group rights have been argued to exist when a group is seen as more than a mere composite or assembly of separate individuals but an entity in its own right. For example, a platoon of soldiers in combat can be thought of as a distinct group, since individual members are willing to risk their lives for the survival of the group, and therefore the group can be conceived as having a "right" which is superior to that of any individual member; for example, a soldier who disobeys an officer can be punished, perhaps even killed, for a breach of obedience. But there is another sense of group rights in which people who are members of a group can be thought of as having specific individual rights because of their membership in a group. In this sense, the set of rights which individuals-as-group-members have is expanded because of their membership in a group. For example, workers who are members of a group such as a labor union can be thought of as having expanded individual rights because of their membership in the labor union, such as the rights to specific working conditions or wages. As expected, there is sometimes considerable disagreement about what exactly is meant by the term "group" as well as by the term "group rights. A classic instance in which group and individual rights clash is conflicts between unions and their members. For example, individual members of a union may wish a wage higher than the union-negotiated wage, but are prevented from making further requests; in a so-called closed shop which has a union security agreement, only the union has a right to decide matters for the individual union members such as wage rates. So, do the supposed "individual rights" of the workers prevail about the proper wage? Or do the "group rights" of the union regarding the proper wage prevail? Clearly this is a source of tension. The Austrian School of Economics holds that only individuals think, feel, and act whether or not members of any abstract group. The society should thus according to economists of the school be analyzed starting from the individual. This methodology is called methodological individualism and is used by the economists to justify individual rights. Other senses[edit] Other distinctions between rights draw more on historical association or family resemblance than on precise philosophical distinctions. These include the distinction between civil and political rights and economic, social and cultural rights, between which the articles of the Universal Declaration of Human Rights are often divided. Another conception of rights groups them into three generations. These distinctions have much overlap with that between negative and positive rights, as well as between individual rights and group rights, but these groupings are not entirely coextensive. Politics[edit] In the United States, persons who are going to be questioned by police when they are in police custody must be read their "Miranda rights". The Miranda warning requires police officers to read a statement to people being arrested which informs them that they have certain rights, such as the right to remain silent and the right to have an attorney. Rights are often included in the foundational questions that governments and politics have been designed to deal with. Often the development of these socio-political institutions have formed a dialectical relationship with rights. Rights about particular issues, or the rights of particular groups, are often areas of special concern. Often these concerns arise when rights come into conflict with other legal or moral issues, sometimes even other rights. With increasing monitoring and the information society, information rights, such as the right to privacy are becoming more important. Some examples of groups whose rights are of particular concern include animals, [6] and amongst humans, groups such as children [7] and youth, parents both mothers and fathers, and men and women. The concept of rights varies with political orientation. Positive rights such as a "right to medical care" are emphasized more often by left-leaning thinkers, while right-leaning thinkers place more emphasis on negative rights such as the "right to a fair trial". Conservatives and libertarians and advocates of free markets often identify equality with equality of opportunity, and want equal and fair rules in the process of making things, while agreeing that sometimes these fair rules lead to unequal outcomes. In contrast, socialists often identify equality with equality of outcome and see fairness when people have equal amounts of goods and services, and therefore think that people have a right to equal portions of necessities such as health care or economic assistance or housing. Meta-ethics is one of the three branches of ethics generally recognized by philosophers, the others being normative ethics and applied ethics. While normative ethics addresses such questions as "What should one do? Rights ethics is an answer to the meta-ethical question of what normative ethics is concerned with Meta-ethics also includes a group of

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questions about how ethics comes to be known, true, etc. Rights ethics holds that normative ethics is concerned with rights. Alternative meta-ethical theories are that ethics is concerned with one of the following:

4: Victims' Rights

This expands the ability of victims to collect restitution and also means the orders can stay in effect for many years, typically ten to twenty years. In many jurisdictions, civil judgments can be renewed, so they can stay in effect even longer.

However, this may not always be the case, as with victims of white collar crime, who may not be clearly identifiable or directly linked to crime against a particular individual. Victims of white collar crime are often denied their status as victims by the social construction of the concept. Croall, A victim impact panel, which usually follows the victim impact statement, is a form of community-based or restorative justice in which the crime victims or relatives and friends of deceased crime victims meet with the defendant after conviction to tell the convict about how the criminal activity affected them, in the hope of rehabilitation or deterrence. Consequences of crimes[edit] Emotional distress as the result of crime is a recurring theme for all victims of crime. The most common problems, affecting three quarters of victims, were psychological problems, including: Post crime distress is also linked to pre-existing emotional problems and sociodemographic variables. This has been known to become a leading cause of the elderly to be more adversely affected. Ferraro, Victims may experience the following psychological reactions: Increase in the realization of personal vulnerability. The perception of the world as meaningless and incomprehensible. The view of themselves in a negative light. Environmental theory[edit] The environmental theory posits that the location and context of the crime bring the victim of the crime and its perpetrator together. Adolescents victimizing people they did not know generally committed common assault, forcible confinement, and armed or unarmed robbery. Dunning-Kruger effect In social psychology, the fundamental attribution error also known as correspondence bias or attribution effect describes the tendency to over-value dispositional or personality-based explanations for the observed behaviors of others while under-valuing situational explanations for those behaviors. The term was coined by Lee Ross [13] some years after a now-classic experiment by Edward E. Jones and Victor Harris. This discrepancy is called the actor-observer bias. As a simple example, if Alice saw Bob trip over a rock and fall, Alice might consider Bob to be clumsy or careless dispositional. If Alice later tripped over the same rock herself, she would be more likely to blame the placement of the rock situational. Victim proneness or victim blaming can be a form of fundamental attribution error, and more specifically, the just-world phenomenon. We are motivated to see a just world because this reduces our perceived threats, [16] [17] gives us a sense of security, helps us find meaning in difficult and unsettling circumstances, and benefits us psychologically. The theory of victim facilitation calls for study of the external elements that make a victim more accessible or vulnerable to an attack. Categorization was based upon lifestyle risk example, amount of time spent interacting with strangers, type of employment, and their location at the time of the killing example, bar, home or place of business. For instance, a study of victim facilitation increases public awareness, leads to more research on victim-offender relationship, and advances theoretical etiologies of violent crime. Another goal of studying victim facilitation, as stated by Maurice Godwin, is to aid in investigations. Godwin discusses the theory of victim social networks as a concept in which one looks at the areas of highest risk for victimization from a serial killer. Using this process, investigators can create a profile of places where the serial killer and victim both frequent. Each year, data are obtained from a nationally representative sample of 77, households comprising nearly 100,000 persons on the frequency, characteristics and consequences of criminal victimization in the United States. This survey enables the government to estimate the likelihood of victimization by rape, sexual assault, robbery, assault, theft, household burglary, and motor vehicle theft for the population as a whole as well as for segments of the population such as women, the elderly, members of various racial groups, city dwellers, or other groups. It was created in to ensure the federal government meets its responsibilities to victims of crime. The ombudsman provides information to victims about their rights under Canadian federal law, the services available to them, or to make a complaint about any federal agency or federal legislation dealing with victims of crime. Where appropriate, the Ombudsman may also make recommendations to the federal government.

Attempts to use the data from these national surveys for international comparison have failed. Differences in definitions of crime and other methodological differences are too big for proper comparison. A dedicated survey for international comparison: A group of European criminologists started an international victimization study with the sole purpose to generate international comparative crime and victimization data. Society as crime victim[edit] One train of thought supposes society itself is the victim of many crimes, especially such felonies as murder , homicide and manslaughter. Many lawyers, judges, and academics have espoused this sentiment. Some district attorneys feel they represent all of society, while others feel they represent the victims of the crime. That is, both are involved in the event. In criminal jurisprudence, mere punishing of offender is not sufficient to redress the grievance of victim; there is need to compensate the loss or harms suffered by the victim. In Criminal Procedure Code, though provisions have been made in Section to provide compensation to victims, who have suffered loss or harms in consequence to commission of offence. But, what has been provided in Indian Law, as a compensatory measure to victims of crimes, is not enough and this aspect needs to be reviewed by the legislature to frame or enact necessary law, so as to sufficiently compensate to victims of crimes and to provide safeguards to victims of crimes, besides compensating him in monetary terms. European Union[edit] European Union Victims of gender-based violence and terrorism The Stockholm programme explicitly mentions gender-based violence victims in Sect. Victims of terrorism are also deemed to be in need. Victim services include free access to legal advice and representation, counselling and monetary compensation. Monetary compensation however is capped and is only available to victims of serious crimes, which is defined as crimes where the offender serves no less than six months imprisonment. The compensation is funded by fines imposed on convicted offenders and other sources. Applications, phone calls or emails must be made in either English or German which may hinder victims of crime from accessing services fully or understanding their rights without the help of an embassy or consulate. Another breach of the Directive involves the benefits afforded only to Austrian citizens. Austrian citizens are entitled to compensation if they are a victim of crime, even if they suffer an injury in another country, an additional protection for Austrian citizens only. Due to the limited resources only partly funded by the government, largely reliant on donations of Weissering, any victim seeking compensation will be means tested and assessed on a case by case basis. Emergency assistance may be available in some cases. This indicates that the Austrian Government is trying to raise awareness about victims of crime, specifically in areas that are presenting a current issue in accordance with the Directive [43] Croatia[edit] The rights of victims of crimes in Croatia have been improving steadily since Croatia became a candidate for the European Union in As a result of their wish to become a part of the EU certain prerequisites had to be fulfilled in regards to their criminal justice system and human rights. Croatia, in order to fulfil said prerequisites, initiated change in their criminal justice system in relation to the rights of victims. These rights include the "right to efficient psychological and other expert help and support from the authority, organisation or institution for aiding victims of criminal offences" and the "right to compensation for material and immaterial damages from the state fund". This act resulted in the ability for Croatian citizens to receive compensation if they have endured serious personal injury. This compensation was in the form of a one off payment, coupled with a monthly allowance and access to free therapy, medical and legal services. This fact can be seen as being particularly relevant to crimes often perpetrated against tourists, such as petty theft. This is crucial in relation to compensation claims, whereby foreign citizens are not afforded the same access to compensation. Nationals of states party to the European Convention on the Compensation of Victim of Violent Crimes are granted access to compensations, as are nationals of all Member States of the Council of Europe who are permanent residents in Cyprus. Furthermore, perpetrators are often being convicted under statutes which prescribe a much less serious penalty than other anti-trafficking laws. This decrease in convictions reflects a negative impact on victims of trafficking, who may lack faith in a system of criminal justice which does not adequately identify and punish offenders. These services and support mechanisms are implemented through domestic legislation and not international law. However, as Denmark is not a signatory they are not obligated to implement the directive. The Victims Compensation Law of allows Danish and foreign citizens as well as Danish citizens living outside of Denmark access to compensation for victims of crime with serious injuries. Compensation for victims of crime is

extensive within Denmark. Compensation can be given to those who suffered serious injuries and dependents of homicide victims. A time period of two years applies for all applications for compensation. For all other crimes the court will decide on free legal services on the grounds of economic situation and necessity. In addition, victim support services are accessible to all residents even in circumstances where no crime has been reported, nor is there any criminal proceeding underway. This allows victims to access services and undergo rehabilitation, even in the instance where a choice is made to not report the crime. In the instance of mediation between offender and the victim, whereby the offender expresses remorse and the victim accepts the apology and reconciles, the judge and therefore the court may formally acknowledge the situation, still applying the sentence, however with a lighter punishment. This empowerment of the victim is often more necessary to provide closure than the strict punishment of the offender. If there is a decision not to prosecute on behalf of the police, and therefore not proceed to a court trial closure of the case, the victim can appeal the decision before a regional public prosecutor. If the regional public prosecutor has initially decided to close the investigation, then the next avenue is a submission of appeal is to be directed towards the Director of public prosecutions. State victim support only deals with certain types of offences with a fixed agenda and is far more regulated, making the process much more official, and leading to victims uncomfortable participating. Victims are entitled to participate in criminal trials as witnesses, private accusers or complainants, with assistance from legal counsel. Additionally, legislation provides for protection of vulnerable witnesses e. The court held that rape laws must apply to all forms of non-consensual sexual acts. Issues with Human Trafficking Laws[edit] A recent Council of Europe on Action against Trafficking in Human Beings found that no adult victims of human trafficking received any form of assistance from the Bulgarian Government. First, it has two separate definitions: France[edit] Introduction: As of February, it had still failed to notify the EU what, if any, policies it had implemented to fulfill this. Investigations are undertaken by French detective police under the authority of the prosecutor police investigation or the investigating magistrate judicial investigation. Police can register compensation claims on behalf of victims so there is no need to go to court. A state fund for compensation for victims of violent crimes exists called The State Fund for the Victims of Crime. This is partly funded by Criminal Justice bodies who recoup funds from perpetrators The Reform Act There a number of organisations within France dedicated to providing justice and support for victims of crime in France. It directs victims towards their nearest INAVEM support office who can get the victim assistance from the relevant victim organisation. In, France was found to have violated Article 4 of the European Convention of Human Rights due to its failure to provide an adequate framework to protect the rights of human trafficking victims. As of, however, the Government of France was in full compliance with the required minimum standards for the elimination of trafficking. Despite this, the protection was still largely focused on victims of sex trafficking and not victims of labour trafficking. In contrast to the Adversarial System of trial, it is possible to have more than two opposing parties in a criminal trial, as there is not such a large requirement of a balance between the prosecution and the rights of the defendant. Legal representative for victims in the trial[edit] Unlike many other jurisdictions, Part Five of the Criminal Code allows victims of crime to participate in the criminal proceedings against the accused. The Criminal Code [74] rules that the status of the PAP is that of the PPO in the preferred public charge, meaning they are able to participate to the same extent and be heard in the proceedings on the private charges. Furthermore, the PAP is entitled to a period of one week between summons and the main hearing and holds the right to inspect the files through an attorney. However, an appeal by a PAP will be rejected should it be solely on account of leniency of the sentence.

5: NY City Family Court -- Domestic Violence FAQs

If you are a victim or a witness, the Victim-Witness Program of the United States Attorney's office can help you understand the rights given to you by law. The United States Attorney's office is committed to ensuring that crime victims and witnesses are treated fairly by the criminal justice system.

You can file a petition in Family Court for an order of protection if 1 you are related to the respondent by blood or marriage; 2 you are or were legally married to the respondent; 3 you have a child with the respondent; or 4 you are or were in an intimate relationship with the respondent. Factors the court may consider in determining whether a relationship is an "intimate relationship" include but are not limited to: Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship". You may proceed for orders of protection in Family or Criminal Court or both. If you need an order of protection against someone else, you can only get one through Criminal Court. To get a criminal court order of protection, the police must arrest the person or you may go to the Court Dispute Referral Center. You must go to the Help Center "Petition Room" between 8: After you tell the clerk at the front desk you are there, you will be given forms to fill out, including one to write down the incidents of violence. When your name is called, you will see a clerk who will write the petition based on the information you gave on the form. There are no filing fees in Family Court. Write down as many details as possible. Many actions are family offenses, such as when a person verbally, physically, emotionally, or sexually abuses you, or threatens to hurt you. Describe when each incident occurred, where it occurred, what happened, whether you were injured bruises, cuts , and whether weapons were used. It is best to include the most recent incident, the first incident and the worst incident. If there was verbal abuse, tell the clerk the exact words the respondent used. Tell the clerk if there is criminal court involvement and if there were earlier orders of protection. Before you sign the petition, read it carefully and tell the petition clerk if anything important has been left out. Make sure the petition is accurate and fully states what you want to tell the Judge. What can I ask for in my petition? Most temporary orders of protection say that the respondent must not assault, menace, or harass you, but you can ask for additional terms. You must tell the petition clerk specifically what you would like the Judge to order. Some of these things may be in the temporary order and some may be in the final order. You can ask for: The court can order the respondent to stop abusing or threatening to abuse you or your children. The order can be specific, such as, ordering the respondent to stop calling you at work. If you do not want to return home, you can ask the court to allow you to enter your home with the police to collect your personal belongings at a certain date and time. If the respondent is dangerous to you or your children, you can ask the court to order the respondent out of the home "excluded" while the order of protection is in effect. It does not matter that the home is not in your name. The court can order temporary child support based on the needs of the child. You do not have to show how much money the respondent has or earns. Since the child support is only temporary, you will still have to file a separate petition for child support. You can do this on the 1st floor of the Family Court. The case will be heard by a Support Magistrate in about two or three months, but you can get support back to the date you filed the petition. Most Family Court orders of protection are for two years. You can get a five year order of protection if there are "aggravating circumstances", or if the court finds there was a violation of an order of protection. Aggravating circumstances exist where there is physical injury, the respondent used a weapon or other dangerous instrument against you, there is a history of repeated violations of prior orders of protection, the respondent has been convicted of crimes committed against you in the past, there is exposure of any family or household member to physical injury, or other behaviors that pose a danger to you, your family or other household members. A temporary order of protection is issued on the day you file for an order of protection before the respondent is served with the papers. It only lasts until the next time that you are in court. The court usually will extend the temporary order at each court date until the case is over. If a final order of protection is issued, this occurs at the end of the case after the Judge finds that a family offense was committed or the respondent agrees. A final order lasts for two or five years. A final order of protection can also include: If the respondent

damaged any of your property e. You will have to prove the value of what was damaged. The court can order the respondent to pay for any medical expenses arising from the abuse. You can ask the court to order that the respondent not interfere with custody of your children as part of the order of protection. This order will last for as long as the order of protection does. You may also file a separate petition for custody. The clerk will help you file a petition for custody. Either parent can file a petition for final custody at any time. The court may order visitation for either parent as part of the order of protection. If necessary, the court can order supervised visits. The visitation order will last only as long as the order of protection. Either parent may file a separate petition for visitation at any time. However, the court may direct that a separate petition be filed to determine this issue. When Will I See the Judge? After the clerk drafts the petition, you will wait to see a Judge on the second floor. The Judge will review the petition and determine whether there is good cause to issue you a temporary order of protection. The Judge will order a summons to serve on the respondent and a date to come back. What Do I Say to the Judge? The Judge may ask you questions about what you said in the petition. The Judge will decide whether to issue a temporary order based on your petition and answers to the questions. Tell the Judge if you want the respondent excluded or need temporary child support. Even if the Judge does not issue the temporary order of protection, you may get one later. The Judge will ask you how you want to serve the papers. The different options are listed below. The court may issue a warrant directing that the respondent be brought immediately before the Family Court. Warrants are issued under special circumstances, such as when your safety or the safety of your child is at risk. After you have seen the Judge, you must wait to pick up your papers in a designated waiting area. You will receive your copies of the temporary order of protection, if one has been issued. You will also receive a summons and copy of the petition for the respondent, if you are arranging service on the respondent. Does the Respondent Have to Know about the Petition? You can not get a final order of protection unless the respondent has received notice of the case. The summons with notice, petition for an order of protection and temporary order of protection must be personally served handed to the respondent. Any person over eighteen years old, except you, may serve these papers. The police, the NYC sheriff, a friend or relative can serve the papers. You can also hire a process server. You the petitioner may never serve the papers yourself. Papers for an order of protection may be served any day of the week at any time of the day or night. There are two ways to have the Sheriff serve the papers. If the Sheriff does the service of the papers, they will send the Court the proof of service or if they are unable to locate the respondent the proof of attempted service. The order of protection is not in effect until it has been served. You can sign up to be notified by the Sheriff when the papers are served at WWW.COM 2 Service by police: You can take the papers to the precinct yourself and go with the police to serve the papers. If you want the police to serve your papers, go to the precinct where the respondent lives, works, or is to be served. The police may ask you to go with them. You will remain in the police car. Sometimes, the police will let you give them a picture of the respondent instead of asking you to go with them. The police are required to make six attempts to deliver the papers. Once the respondent has been served, the police must give you a "Statement of Personal Service" which does not need to be notarized. If the police have been unable to deliver the petition after six attempts, they must give you a statement showing the date and times of the attempts. Ask the police officer for the statement of personal or attempted service and make sure it is signed. Bring this statement with you on the next court date. If a friend or relative gives the papers to the respondent, this person must complete an "Affidavit of Service" and have it notarized. You must bring this with you when you return to court, or the case will be postponed or dismissed. You may also bring the person who served the papers with you to court. The respondent may be served anywhere. You should come back to court even if you have not been able to serve the respondent.

6: How a Case Moves Through the Court System

Stay Away Provision: Ordering the abuser to stay at least a certain number of yards or feet away from the victim, his or her home, job, school, and car. The stay-away distance can vary by state, judge or the lethality of the situation, but is often at least yards or feet.

The federal criminal justice system cannot function without the participation of victims and witnesses. Complete cooperation and truthful testimony of all witnesses and victims are essential to the determination of the guilt or innocence of a person accused of committing a crime. Crime victims and witnesses might experience feelings of confusion, frustration, fear, and anger. This pamphlet will provide answers to many of your questions and will help you understand your rights and responsibilities. Sometimes a federal magistrate judge presides over the proceeding.

Victim An individual who has suffered direct physical, emotional, or economic harm as a result of the commission of a crime.

Defendant The person accused of committing a crime.

The goal of the Federal Victim-Witness Program is to ensure that victims and witnesses of federal crimes are treated fairly, that their privacy is respected, and that they are treated with dignity and respect. Victim-Witness Coordinators and Victim Advocates work to make sure victims are kept informed of the status of a case and help victims find services to assist them in recovering from the crime. This piece of legislation provided crime victims with a "Bill of Rights. Victim Services Required by Law Victims are entitled to general information about the criminal justice process and notice of important case events, including notification about: The status of the investigation of the crime as long as this will not interfere with the investigation of the crime, the arrest of a suspected offender, and the filing of charges against a suspected offender. The date, time, and location of each court proceeding that the witness and victim is either required to or permitted to attend; The release or detention status of an offender or suspected offender. The acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial. The sentence imposed on an offender, including the date on which the offender will be eligible for release. Victims are entitled to information about available services: Information as to where he or she may receive emergency medical and social services and how and from whom to request these services. Information about any restitution or other relief to which he or she may be entitled and how to obtain this relief. Information about public and private programs that are available to provide counseling, treatment, and other support and how to obtain these services. Victims are entitled to reasonable protection from a suspected offender: The Department of Justice shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting for or with the suspected offender. Victims who attend court proceedings shall be provided with a place to wait which is removed from and out of the sight and hearing of the defendant and defense witnesses. Victims are entitled to the following additional services: Property belonging to victims and being held for evidentiary purposes shall be maintained in good condition and returned to the victim as soon as it is no longer needed. Sexual assault victims also have a right to request that the defendant be tested for sexually transmitted diseases.

Court Appearances There are many different stages involved with a case, including numerous hearings that you may be asked to attend. Despite the best efforts of everyone concerned, court hearings do not always take place on schedule. When possible, the Assistant United States Attorney handling the case will discuss any proposed scheduling changes with you.

How Cases are Resolved Although many criminal cases go to trial, many other criminal cases end without a trial. For example, a defendant may plead guilty to the crime, or the Government may dismiss the case not try the case for a variety of reasons. Different scenarios are discussed below.

Declination When the United States Attorney chooses not to prosecute a particular case, this is called declination. The AUSA is ethically bound not to bring criminal charges unless the legally admissible evidence is likely to be enough to obtain a conviction. However, even when the evidence is sufficient, the AUSA may decide that there is not a sufficient federal interest served by prosecuting the particular defendant in a federal case. In many cases, the defendant may be subject to prosecution in another state, local, or tribal court including a state court for the prosecution of juvenile delinquents and prosecution in this other forum might be more appropriate than prosecution in federal court.

Dismissal When the United States Attorney or

the court chooses to dismiss the case after it has been filed with the court, this is called dismissal. The AUSA may do this because the court will not allow critical evidence to be a part of the case, or because witnesses have become unavailable. There are times when evidence that weakens the case may come to light after the case has started. In other instances, the court may dismiss a case over the objection of the Assistant United States Attorney if the court determines that the evidence is insufficient to find the defendant guilty.

Pretrial Diversion When the United States Attorney decides not to try a defendant right away, or not to bring charges immediately, a defendant may be placed in a Pretrial Diversion Program. Under this program, the United States and the defendant enter into a contract in which the defendant agrees to comply with certain conditions, and agrees to be supervised by the United States Probation Office for a period of time. If the defendant successfully complies with all of the conditions, no charges will be brought. However, if the defendant fails to meet a condition, charges may be filed. The Pretrial Diversion Program is designed for those defendants who do not appear likely to engage in further criminal conduct, and who appear to be susceptible to rehabilitation. The objective of the program is to prevent future criminal activity by certain defendants who would benefit more from community supervision and services than from traditional punishment.

Plea Agreements When the United States Attorney reaches an agreement with a defendant, a plea agreement is established. A guilty plea can take place at any time, and can even take place after trial has begun. To the public and to many victims, plea bargaining has a negative image. In reality, it is a very good tool to resolving a case and making sure a conviction is certain. Criminal cases always involve risks and uncertainties. A jury verdict of guilty is never a sure thing. With a plea agreement, a conviction is guaranteed, and a sentence is imposed. By pleading guilty, the defendant waives his or her right to trial.

Trial Many cases do go to trial.

Answers to Commonly Asked Questions The criminal justice process can be complex and lengthy. Please contact the Coordinator if you have any questions. Listed below are answers to some questions that are frequently asked by victims and witnesses.

What kind of support services or assistance can the Victim-Witness Coordinator offer? Referrals
Victim-Witness Coordinators can provide victims with referrals to existing agencies for shelter, counseling, financial compensation, and other types of assistance services.

Accompaniment to court In certain cases, the Victim-Witness Coordinator or Victim-Witness Advocate may be available to accompany you to court to provide support.

Assistance with employers or creditors If your participation in the prosecution causes you to be absent from work, the Victim-Witness Coordinator can, at your request, contact your employer and explain your role in the case. Likewise, if the crime, or your participation in the prosecution makes you unable to pay your bills on time, the Victim-Witness Coordinator can, at your request, contact creditors for you, or assist you in doing so yourself. While creditors are not obligated to take your participation in the case into consideration, they may chose to do so, particularly if there is a possibility that you may receive restitution from the defendant.

How will I find out information about the case? The Victim-Witness Coordinator will routinely provide information or assistance concerning transportation, parking, lodging, translators, and related services. If you have questions about the case in which you are involved, you are welcome to call the Victim-Witness Coordinator or the Assistant United States Attorney who is handling the case. The Assistant United States Attorney may also be contacting you for information at various stages of the proceedings.

How can I tell the court how this crime has affected me? During a trial, it may seem as if most of the attention is paid to the defendant and not to the affects the crime has had on the victim. This statement will be included in the pre-sentence report prepared by the probation officer for the judge prior to sentencing. Victims may attend the sentencing hearing, and victims of violent crimes or crimes involving sexual abuse will also have the opportunity to address the court at this time.

How do I know when the offender in my case may be released from prison? Federal Bureau of Prisons Notification Program If the defendant is sentenced to a period of time in a federal prison, victims may choose to enroll in the Bureau of Prisons notification program. Once enrolled, you will receive information directly from the Bureau of Prisons. You will be notified of the death, escape, or furlough of the inmate, and you will be notified if the inmate is transferred to a halfway house. The Victim-Witness Coordinator will provide victims with the information needed to enroll in this program. This information is kept confidential and the inmate does not have access to this information.

What do I do if I am being threatened by the defendant or others acting on behalf of the defendant? These telephone numbers are

listed in your telephone directory under United States Government. In emergency situations, always contact your local law enforcement first. What is a bond and what factors are considered when releasing a defendant? There are two main factors the court considers when deciding whether or not to release a defendant pending trial: Risk of flight, and Risk of danger to the community. If the court is satisfied that the defendant will appear in court and that the defendant does not pose a threat to the community, the court may release the defendant while he or she is awaiting trial. Since most federal criminal defendants are released on bond pending trial, you should not be surprised if you happen to see the defendant prior to trial. Can I observe the trial? As a general rule, witnesses are not permitted to watch court proceedings. Victims that are testifying at the trial: Victims that are not testifying at the trial: Not all victims are required to be witnesses at the trial. Am I entitled to a witness fee for every day that I am required to appear in court in connection with the case? Victims will only receive a witness fee for the days they testify. If they are not testifying and are there only to observe the proceeding, they will not receive a witness fee. Can I discuss the case with others? Defense attorneys and investigators working for defendants often contact victims and witnesses. It is not unusual or inappropriate for the defense lawyer or an investigator for the defense to contact you for an interview. While you may discuss the case with them if you wish to do so, you do not have to talk to them. The choice is entirely yours. Below are some general suggestions and tips when discussing the case.

7: CDCR Restitution Collection Efforts

The International Labor Organization estimates that there are million victims of human trafficking globally, with hundreds of thousands in the United States. www.enganchecubano.com victims of this crime in the U.S. are men and women, adults and children, and foreign nationals and U.S. citizens.

Order the Book Today Victim Restitution for Financial and Emotional Suffering from Fraud The principle of restitution is an integral part of virtually every formal system of criminal justice. It holds that, whatever else society does to punish its wrongdoers, it should also insure that the criminal is required, if possible, to restore the victim to his or her prior state of well-being. The payment of restitution by perpetrators can mark the end of a financial nightmare for fraud victims. It not only serves to right a wrong, it often allows them to return to whatever level of financial security they enjoyed before the crime. The biggest dream for those who have suffered from financial crime is getting some money back, preferably from the people who stole it from them. However, in reality, very few fraud perpetrators actually pay restitution. Many perpetrators will have spent the money and have no discernible resources with which to repay victims. In other cases, perpetrators will have placed assets in the names of others or hidden money in offshore accounts, so victims usually collect only pennies on the dollar of what they are owed, or get nothing at all. One telemarketer recently told a prosecutor: There have been attempts to deal with this problem by assigning fraud investigators to track the assets of suspected perpetrators before they are indicted. Most restitution payments begin only after the defendant is released. So even if the court orders full restitution to victims, the collection and distribution of payments is often difficult, especially if perpetrators are sentenced to long periods of incarceration. Additionally, victims not officially included in formal indictments are ineligible to receive any restitution unless their repayment is part of a plea negotiation. Some losses may at least be tax-deductible so consult a qualified tax advisor or the taxation department to see if your losses qualify. The court sets the amount of restitution, the order in which victims will be paid if there are multiple victims, usually those with the most pressing financial needs are paid first, and conditions for repayment. Even the process of having to notify all the victims in a big fraud case is an overwhelming undertaking. You will be required to submit a documented account of your financial losses before the judge orders restitution. So the first thing you should do is collect and save any paperwork that directly relates to your loss. Settlements Seasoned litigators know that it is one thing to obtain a judgment and quite another to collect it. As a tool to preserve wealth, offshore trusts are effective because a creditor with a U.S. Because some jurisdictions will not recognize foreign judgments, the creditor may be forced to re-litigate its entire case against the trust locally. Also restrictive for a creditor is the fact that these havens do not allow lawyers to take matters based on a contingency fee. As such, the process may prove prohibitively expensive for an individual creditor when the potential reward is so uncertain. The effectiveness of offshore trusts for asset protection purposes remains clear and explains how settlements, if offered at all, range from only cents on the dollar. Seizure and Forfeiture of Assets. Liens on assets are enforceable for twenty years from the time they are released from prison. Some scammers try to use bankruptcy protection to make it harder for their victims to collect anything but under federal law, they cannot file bankruptcy to discharge their legal obligation to pay court-ordered restitution or civil judgments. What is civil forfeiture? There are two kinds of forfeiture: The former is part of a criminal case against a defendant. The other is an entirely separate civil action. While there is a parallel criminal arrest and prosecution, in the overwhelming majority of civil forfeiture cases, there are important reasons why the government must have civil forfeiture, in addition to criminal. First, criminal forfeiture is unavailable if the defendant is dead or is a fugitive. There is simply no criminal case in which to pursue forfeiture. Second, a majority of forfeiture cases are uncontested, often because the defendant sees no point in claiming property that connects him to the crime. Civil forfeiture allows disposal of these cases administratively. Third, criminal forfeiture statutes are not comprehensive. Some cases must be done civilly simply because there is no criminal forfeiture statute. Fourth, criminal forfeiture in a federal case requires a federal conviction. If the defendant was convicted in a state case, the federal forfeiture must be a civil forfeiture. Fifth, criminal forfeiture is limited to the property of the

defendant himself, not associates or family members who may have taken possession of the assets. Civil forfeiture statutes were the only means available for immobilizing these assets to preserve their availability for restitution to victims, because a criminal indictment could not be filed until evidence located in foreign countries was obtained through painfully difficult and time consuming requests to foreign governments Canada, Barbados, Switzerland, Cayman Islands, and Jersey. The crooks were subsequently indicted and pled guilty and as a result of the combined use of the criminal sentencing and civil forfeiture procedures, restitution was available for the majority of the most severely affected elderly victims. Forfeiture Saves Elderly Woman From Destitution A year old widow was stripped of her home and her life savings by her home health care aide. The aide looted her bank accounts then sold her home out from under her, while she was living at a nursing home, by having an impostor impersonate her at the closing. Although the cons had squandered most of the proceeds the forfeiture allowed officials to recover and sell numerous vehicles, parcels of real estate, and businesses linked to the fraudulent proceeds. Civil Recovery for Fraud Victims Although many crime victims and their families have some knowledge about the legal system, they are often unaware that there are two systems of justice available in which to hold the offender accountable—the criminal justice system and the civil justice system. Civil recovery is another option for recovering your financial losses, especially those not considered in the criminal justice system. Civil recovery is an action separate from the criminal prosecution, and filing a civil action does not preclude you from requesting restitution in the criminal case. So, if you believe the fraud perpetrator has assets, you may be able to recover some losses through a civil lawsuit. Civil cases are private matters. You have to initiate the action and hire a lawyer at your own expense. Rather, civil courts attempt to ascertain whether an offender or a third-party is civilly liable for the injuries sustained as a result of the crime. The civil legal system offers crime victims another opportunity to secure what they seek most — justice. Regardless of whether there was a successful criminal prosecution—or any prosecution at all—victims can bring their claims before the court and ask to have the responsible parties held accountable. In the civil justice system, offenders are held accountable, not to the state, but to the victims who suffered the direct impact of the crime. While money awarded in civil lawsuits can never fully compensate a victim for the trauma of victimization or the loss of a loved one, it can provide valuable resources to help crime victims rebuild their lives. If your loss is small, you may want to investigate filing a claim in small claims court where you do not require a lawyer. Three Day Rescission Law There is a common thread that links many "membership" businesses such as campground membership resorts, resort membership resale businesses, travel clubs, video dating services and some "business opportunities". The consumer is sold a future service contract membership and told that they have three days in which to cancel. Actually, where there is a statutory cancellation period, the statute allows the consumer to cancel within 3 or 7 or 10 depending on the statute without paying ANY damages whatsoever. After three days, normal contract damage law still applies. The business can only keep actual damages for instance, the cost of a 1 hour sale pitch and a glossy brochure. Many consumers are really beat up with this misrepresentation. Mark Fleming, a class action attorney from Seattle has yet to find a judge that agrees. LTRA said the consumer had to pay the full sales price whether the consumer wanted to keep the membership or not. The judge disagreed and the consumers won. The court ruled that a business that requires full forfeiture on a future services contract has engaged in a deceptive trade practice. As a matter of common sense, the business has been relieved from performing years of membership services. Therefore, how can it be entitled to full payment? Nor does it make sense for the business to argue that the consumer should be forced to remain a member against their will. Unfortunately, we are used to the concept of having to pay in full on a contract because we have driven the vehicle off the lot, taken the TV home, etc. When "you have the goods," you pay the price. It was discovered from reviewing financial statements that the campground membership industry considers its satisfied customers as "loss leaders. If an individual sues, proves a deceptive trade practice, and gets their money back, nobody really knows. Only appellate cases are reported so that other attorneys can find them, and a business is not likely to appeal and have everyone know that one of its business practices is deceptive. Consumers are constantly "reinventing the wheel" when it comes to proving that a particular business practice is illegal. Many "traditionally suspect businesses" membership sales, furnace installers, dating services, etc. They will pound

their chests until the day of trial and then not show. They simply turned around and charged-back these monies to the telemarketers, some of whom live in the poshest areas of Montreal. More recently, victims have also been using the Small Claims courts to recover monies back from allegedly negligent banks. Examples are viewable at Horvath and Rabko. Fraud victims or their families should be able to take these steps without getting a lawyer involved. Victim should go back to his or her bank to ask for "endorsement copies" of bank drafts, certified cheques and money orders sent to these telemarketers. Determine if the endorsement shows a "Club Insta Paie Inc" stamp indicating that the payment was encashed through the Bank of Montreal at St. If it does, the victim should send a written demand via registered mail for a return of the money from these two companies: The victim should go back to his or her bank with a copy of the registered letters and ask that the draft be re-routed back for reimbursement. New and important case law may also hold the vendor of drafts and money orders liable in small claims court. The individual below can provide victims with some helpful documents: Please email him your request. The documents will be sent as TIF files, or alternatively, by fax, if you provide a fax number. There is no charge. Example of such payments mentioned above. A letter from the Bank of Montreal indicating the procedure of how a victim can obtain his refund. Supporting case laws, including a Supreme Court of Canada ruling. Bob Salvador is a consumer-rights paralegal interested in helping Canadians recover their losses from white-collar thugs. It is up to the consumer to come forward from that point. ClassactionAmerica is a Web site with information on class-action lawsuits and product recall settlements. Users can also submit information online to an attorney for a free evaluation or to determine whether award money is due.

8: Crime Victims' Rights Act | USAO | Department of Justice

The most frequently asked question concerning a battering situation is why does the victim stay? While there exists a variety of reasons, it is also very possible the victim may be locked into a cycle of violence. Below are some of the most common reasons why victims stay with the batterers. The.

What is the Integrated Domestic Violence Court? What is an order of protection? An order of protection is issued by the court to limit the behavior of someone who harms or threatens to harm another person. It is used to address various types of safety issues, including, but not limited to situations involving domestic violence. Family Courts, criminal courts, and Supreme Courts can all issue orders of protection. For information and hotline numbers for addressing situations involving domestic violence, see below. An order of protection may direct the offending person not to injure, threaten or harass you, your family, or any other person s listed in the order. A Family Court order of protection is issued as part of a civil proceeding. Its purpose is to stop violence within a family, or within an intimate relationship, and provide protection for those individuals affected. All Family Court proceedings are confidential. To obtain an order of protection in the Family Court, your relationship to the other person must fall into one of the following categories: A relationship may be considered intimate depending on factors such as how often you see each other, or how long you have known each other. After a petition is filed, the court will decide if it is an intimate relationship. To start a proceeding in Family Court, you need to file a form called a Family Offense petition. You may also wish to speak with an attorney or domestic violence advocate before filing. This page also includes helpful information about what to expect in court no matter where in New York State you live. A criminal court order of protection may only be issued against a person who has been charged with a crime. Criminal cases are prosecuted for the State of New York by the district attorney. In a criminal case, the district attorney requests an order of protection for the victim or complaining witness. The judge decides whether to issue the order of protection and what terms and conditions will be included in the order. A Supreme Court order of protection can be issued as part of an ongoing divorce proceeding. If you have an ongoing divorce case and would like to request an order of protection, you may do so by making a written request by Motion or Order to Show Cause; or you may make an oral request at a court appearance. If you are represented by an attorney, your attorney may make the written or oral request for you. What can I do if someone violates an order of protection? It is a crime to violate a temporary or final order of protection. If the subject of the order of protection does not obey the order, then you can call the police. The police will probably arrest the individual for violating the order of protection. The individual does not have to hit you to violate the order. You also have the right to file a violation of the order in Family Court. Filing a violation in Family Court usually will not result in arrest of the individual who has violated the order. You can choose to go to Family or criminal Court, or both. How can I find a court near me? For additional information and assistance, contact your local court. Find the court in the county in which you live:

9: Frequently Asked Questions - Obtaining An Order of Protection

In a criminal case, the district attorney requests an order of protection for the victim or complaining witness. The judge decides whether to issue the order of protection and what terms and conditions will be included in the order.

The difference between restitution and compensation While restitution is court-ordered payment from a convicted offender, crime victim compensation is a state government program that pays many of the out-of-pocket expenses of victims of violent crime even when there is no arrest or prosecution. Ordinarily, to be eligible for compensation the victim is required to report the offense within a certain amount of time, cooperate in the investigation and prosecution, and file an application within a set time. The expenses covered by compensation vary and are usually set by state law. All compensation programs cover medical expenses, most cover counseling, and very few cover any property loss. In comparison, restitution can only be ordered in cases where someone has been convicted. However, restitution can be ordered in almost any case although courts may be required to order it only for certain offenses , and can be ordered for a wider variety of losses, including property loss. A victim cannot collect both compensation and restitution for the same losses. The difference between restitution and civil damages Restitution, as noted above, is ordered by a criminal court after the offender has been found guilty. Civil damages are ordered when someone has won a lawsuit in civil court. Victims of crime can obtain both restitution and civil damages. A victim can sue an offender even when the offender has been ordered to pay restitution. Civil damages can include losses not covered by restitution, such as payment for pain and suffering, payment for intentional infliction of emotional distress, and even punitive damages-damages imposed just to punish the defendant. However, as in cases where the victim receives crime victim compensation and court-ordered restitution, victims cannot collect twice for the same loss. Usually a civil judgment is decreased by the amount of restitution that the victim has already received for a loss. Increasing the likelihood that restitution will be ordered Victims can do two things to increase the likelihood that restitution will be ordered in their case: To increase the chances that restitution will be ordered, victims should make sure their victim impact statement includes a summary of the out-of-pocket expenses resulting from the crime. Victims should also tell prosecutors early in the process that restitution is important to them, so that prosecutors can be prepared to request restitution as part of any plea agreement, sentence, or condition of probation. If victims have the opportunity to address the court at the time a plea agreement is presented or at sentencing, they should specifically describe the financial impact of the crime and, if permitted in that state, request restitution. In those states, the prosecutor can still seek restitution. In some states, the court may reduce the total amount of restitution ordered if the offender is unlikely to be able to pay that amount. As a result, many victims wait years before they receive any restitution, and they may never receive the full amount of restitution ordered. There are many laws and procedures used to make sure the offender pays as ordered. For example, where payment of restitution is made a condition of probation or parole, the probation or parole officer must monitor whether payments are being made on time. The victim may help provide this information to the probation or parole officer. If the offender is about to be released from probation or parole, but has not paid restitution as ordered, this information must be conveyed to the court or parole board. Victims who have not received restitution as ordered should ask the probation or parole officer how this information will be provided to the court or parole board. In some states, probation or parole can be extended when the offender has willfully failed to pay restitution. In those states with prison work programs, restitution payments are typically collected out of the wages of those programs. Some states collect restitution from state income tax refunds, prisoner accounts, lottery winnings, or damage awards from lawsuits against the prison. Where the offender has not paid restitution as ordered-has "defaulted" in payment-restitution often can be collected by the same methods used to enforce other court judgments, such as attachments of assets or garnishment of wages. In some states, the victim is authorized to take these actions; in other states, enforcement is up to the prosecutor, the court, or another official. Many states provide that restitution orders become civil judgments. This expands the ability of victims to collect restitution and also means the orders can stay in effect for many years, typically ten to twenty years. In many jurisdictions, civil judgments can be

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renewed, so they can stay in effect even longer. Depending on the state, the civil judgment may be enforceable immediately, or enforceable when the offender defaults on payment, or enforceable only after the criminal justice process is completed and the offender has been released from probation, prison, or parole. A victim may need to hire an attorney to help enforce the civil judgment. Check in the Blue Pages of your local phone book under the appropriate section heading of either "Local Governments," "County Governments," or "State Government. Copyright by the National Center for Victims of Crime. This document may not be reproduced in whole or in part, by photocopy or by any other means, without the expressed written permission of the National Center for Victims of Crime.

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