



**CORAL GABLES POLICE DEPARTMENT  
CHIEF EDWARD J. HUDAK JR.**

**VICTIMS' RIGHTS & REMEDIES BROCHURE**

**YOUR RIGHTS AS A VICTIM OR WITNESS:**

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We realize that for many people, being a victim or witness to a crime is their first experience with the criminal and juvenile justice systems. As a victim or witness, you have certain rights within the system. This brochure is being provided to you to assist you with questions you may have regarding those rights. For further information regarding these rights please contact the State Attorney's Office at 305-547-0100 or the Victim/Witness Unit at 305-460-5471. This Unit can also assist you with information and guidance in obtaining an Order for Protection or Injunction.

**If you or someone you love is a victim of crime, we are here to help.  
You are not alone.**

**OFFICER'S NAME & ID NUMBER:** \_\_\_\_\_

**CASE #** \_\_\_\_\_

**DATE OF INCIDENT:** \_\_\_\_\_

**ADDRESS WHERE INCIDENT OCCURRED:** \_\_\_\_\_

**Coral Gables Police Department  
2151 Salzedo St.  
Coral Gables, FL 33186  
305-442-1600**

## WHO IS A VICTIM?

“A victim is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act or against whom the crime or delinquent act is committed. **The term victim includes the victim’s lawful representative, the parent or guardian of a minor, or the next of kin of a homicide victim, except upon a showing that the interest of such individual would be in actual or potential conflict with the interests of the victim.** *The term “victim” does not include the accused.*” Article I, Section 16(b)(11), Florida Constitution



**This brochure provides an overview of the criminal justice process and your rights within this process. The person providing you with this brochure may only handle a portion of the process. The last page of this brochure provides contact information for agencies that can assist you.**

## YOUR RIGHTS IN THE CRIMINAL AND JUVENILE JUSTICE SYSTEMS

If you are a victim of a crime or a witness because you have seen, heard, or know something about a crime that has been committed, you are an integral part of the case. Your testimony may be necessary to establish the facts. Understandably, you might feel anxious about testifying in court. However, without your testimony the defendant might go unpunished. Know that there are established rights to protect you.

### AS A CRIME VICTIM, THE FLORIDA CONSTITUTION GUARANTEES YOU THE FOLLOWING RIGHTS

*Article 1, Section 16(b), Florida Constitution*

- **The right to** due process and to be treated with fairness and respect for your dignity.
- **The right to** be free from intimidation, harassment, and abuse.
- **The right,** within the judicial process, to be reasonably protected from the accused and any person acting on behalf of the accused. However, this is not intended to create a special relationship between the crime victim and any law enforcement agency or office absent a special relationship or duty as defined by Florida law.
- **The right to** have your safety and welfare as well as your family's considered when setting bail, including setting pretrial release conditions that could affect you or your family's safety and welfare.
- **The right to** prevent the disclosure of information or records that could be used to locate or harass you or your family, or which could disclose your confidential or privileged information.
- **The right to** the prompt return of your property when no longer needed as evidence in the case.
- **The right to** full and timely resolution in every case and from each convicted offender for all losses you suffered, both directly and indirectly, because of the criminal conduct.
- **The right to** proceedings free from unreasonable delay, and to a prompt and final conclusion of the case and any related post judgment proceedings. (In appropriate cases, the prosecutor may file a good faith demand for a speedy trial. In non-capital cases, all state-level appeals and post-conviction proceedings must be complete within two years

and five years for capital cases, unless the court enters an order with specific findings concerning why the court was unable to do so and the circumstances causing the delay.

- **The right to** be informed of your state constitutional rights, and to be informed that you can seek the advice of an attorney with respect to your rights.

### **AS A CRIME VICTIM, YOU ARE AFFORDED THE FOLLOWING CONSTITUTIONAL RIGHTS UPON REQUEST**

- **The right to** reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct, including, but not limited to, trial, plea, sentencing, or adjudication, even if you will be a witness at the proceeding, notwithstanding any rule to the contrary. **(For this purpose, consider providing the prosecutor an address, an email address, or a telephone number at which you can be reached quickly, and update this information during the pendency of your case.)** You shall also be provided reasonable, accurate, and timely notice of any release or escape of the defendant or delinquent, and any proceeding during which a right of yours is implicated.
- **The right to** be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of yours is implicated.
- **The right to** confer with the prosecuting attorney concerning any plea agreements, participation in pretrial diversion programs, release, restitution, sentencing, or any other disposition of the case.
- **The right to** provide information regarding the impact of the offender's conduct on you and your family to the individual responsible for conducting any presentence investigation or compiling any presentence investigation report, and to have any such information considered in any sentencing recommendations submitted to the court.
- **The right to** receive a copy of any presentence report, and any other report or record relevant to the exercise of a victim's right, except for such portions made confidential or exempt by law.

- **The right to** be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.
- **The right to** be informed of all postconviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender. The parole or early release authority shall extend the right to be heard to any person harmed by the offender.
- **The right to** be informed of clemency and expungement procedures, to provide information to the governor, the court, any clemency board, and other authority in these procedures, and to have that information considered before a clemency or expungement decision is made; and to be notified of such decision in advance of any release of the offender.

## **ALL RIGHTS AFFORDED BY THE CONSTITUTION ARE ENFORCEABLE**

### *Article 1, section 16(c), Florida Constitution*

The victim, the retained attorney of the victim, a lawful representative of the victim, or the office of the state attorney upon request of the victim, may assert and seek enforcement of these rights and any other right afforded to a victim by law in any trial or appellate court, or before any other authority with jurisdiction over the case, as a matter of right. The court or other authority with jurisdiction shall act promptly on such a request, affording a remedy by due course of law for the violation of any right. The reasons for any decision regarding the disposition of your right shall be clearly stated on the record.

## **ADULT CRIMINAL JUSTICE PROCESS**

The stages of the criminal justice system are as follows:

### **PRETRIAL**

After committing a crime:

- An offender may be arrested by a law enforcement officer.
- A court can issue an arrest warrant.
- The State Attorney's Office may file an Information; or
- A grand jury may recommend charges by returning an Indictment or Presentment.

**FIRST APPEARANCE - (Following the Arrest)** If the defendant cannot post bond within hours of the arrest or has been arrested on a no bond offense, or committed a crime which requires a first appearance, the court holds a “first appearance” hearing. The Judge decides whether the defendant can be released and if so, what conditions are necessary to protect you and the witnesses and the public.

**INTAKE** – If probable cause is found, the State Attorney’s Office may choose to file charges and summon the suspect into court. You may be required to meet with your State Attorney’s office. Law enforcement, prosecuting attorneys or any other government official cannot ask or require a victim of a sexual offense to submit to a polygraph examination or truth telling device as a condition of the investigation.

**FILING OF FORMAL CHARGES** - The State Attorney’s Office may file formal charges after reviewing law enforcement arrest reports, and within 21 days in certain circumstances. The State Attorney’s office has discretion whether to prosecute a person for a crime. The State Attorney’s Office must inform any victims of its decision.

**ARRAIGNMENT** - The accused is formally charged and enters a plea of guilty, not guilty, or no contest. The State Attorney’s Office will notify you of the arraignment date. You have the right to be present at the arraignment. In some cases, there will not be a formal arraignment hearing in court.

**RELEASE HEARING (SETTING BOND)** - If the defendant was unable to post a bond after the initial arrest, or if bond was not set, the defendant is entitled to a bond hearing. The State Attorney’s Office will notify you of the scheduled hearing and you will have an opportunity to speak regarding the defendant’s release and conditions or have the State Attorney make known your wishes.

**PRE-TRIAL CONFERENCE** - There may be numerous pre-trial conferences (including case status conferences) that allow the court to ensure the case is progressing in a timely manner. You, as a victim, will receive notice of the hearing dates. You are not required to attend these hearings, unless subpoenaed, but you have a right to be present and a victim advocate or your attorney can accompany you or attend these proceedings on your behalf if you choose.

## **DISCOVERY (PREPARATION FOR TRIAL) -**

**Subpoenas:** You may receive a subpoena for trial, a deposition and/or other hearings. A subpoena summons a person to appear at the time date and location specified.

**Depositions:** The defendant's attorney can issue a subpoena for you to appear for a deposition. You have the right to request a victim advocate from the government or nonprofit sector to attend the deposition with you. You have the right, as a victim who is not incarcerated, to not be required to attend discovery depositions in any correctional facility.

**PLEA NEGOTIATIONS** - Many cases are settled through a plea negotiation where the defendant pleads guilty or no contest without a trial. The State Attorney's Office must consult with the victim of the crime before finalizing the plea agreement with the defendant.

**PRE-TRIAL INTERVENTION/DIVERSION PROGRAM** - According to their discretion and office policy, the State Attorney's Office may agree to utilize pretrial intervention and diversion programs.

**Pre-Trial Intervention Program:** Defendants with no more than one nonviolent misdemeanor, who is charged with any misdemeanor, or any third-degree felony is eligible for release to the pretrial intervention program on approval of the administrator of the program and the consent of the victim, the State Attorney, and the judge. Successful completion of the program results in the dismissal of the charges.

**Diversion Program:** Diversion is similar to probation where the defendant accepts responsibility for the offense and is released under supervision for six months to a year. During the program, the probation office supervises the defendant. You have a right to provide the State Attorney with your opinion on the defendant's participation in the pretrial diversion program.

## **TRIAL**

Generally, the prosecutor presents evidence to either the judge or a jury about the case. The defendant may be found guilty or not guilty. The process ends if the defendant is found not guilty. You, as a victim, may be called to testify. The State Attorney's Office will assist you during this process. You cannot be excluded from any hearing, trial or proceeding relating to the offense. Your rights involving the trial stage are listed in this brochure.

## SENTENCING

**PRESENTENCE INVESTIGATION (PSI)** - You have the right to provide information regarding the impact of the offender's conduct on you and your family to the individual responsible for conducting and/or compiling the presentence investigation. You have a right to review the non-confidential portions of the presentence investigation prior to the sentencing hearing.

**SENTENCING HEARING** - If the defendant is found or pleads guilty, the judge reviews sentencing guidelines, plea agreements, and other factors and determines what type of sentence the defendant should receive. You have a right to provide an oral and/or written victim impact statement (VIS) to the State Attorney's Office at any time before the court imposes the sentence.

*NOTE: If the victim and the offender attend the same school, the victim's parents have the right to attend the sentencing or disposition of the offender and request that the offender be required to attend a different school. (sec. 960.001(1)(s), Florida Statutes)*

## JUVENILE JUSTICE PROCESS

**INTAKE** - The process of determining where a child under the age of 18 will be placed until the case is resolved. There are three forms of detention status: home, non-secure, or secure.

**DIVERSION PROGRAMS** – This is an alternative to trial where the juvenile is placed in a community- based program such as juvenile arbitration, juvenile alternative services program (JASP), or a treatment plan (Walker plan). If a juvenile successfully completes the diversion program, then the charges are generally dismissed.

**FORMAL CHARGES** - The filing of a petition in court by the State Attorney's Office. The charge may be filed in either juvenile court or adult court, depending upon the crime and age of the offender.

**ARRAIGNMENT** - The accused is formally charged and enters a plea of guilty, not guilty, or no contest.

**ADJUDICATORY HEARING** - The trial of the juvenile, conducted in front of a judge. The judge will decide whether the juvenile committed the charged offense(s).

**DISPOSITIONAL HEARING (SENTENCING)** - When a juvenile is found to have committed a delinquent act, the court will hold a dispositional hearing to



determine which sanctions to impose on the juvenile. The sanctions could range from community-based sanctions like probation and community services up to residential commitment.

**JUVENILES TRIED AS ADULTS** - Juveniles who commit very serious crimes may be tried as adults. Juveniles who are prosecuted as adults may be sentenced to adult or juvenile sanctions.

*This is not an exhaustive overview of the criminal justice system but is meant as an overview for how the process works. Each court and case could have unique components. You may contact your State Attorney or law enforcement agency for more information regarding the stages of the criminal justice and juvenile justice processes.*

## **ADDITIONAL VICTIMS' RIGHTS UNDER FLORIDA STATUTES**

- You have the right to employ private counsel.
- In some cases, you (or relatives where the victim is deceased) may be eligible for financial compensation from the State of Florida. Information regarding eligibility may be obtained from your City of Coral Gables Victim Witness Advocate, the State Attorney's Office, or from the Bureau of Crimes Compensation, Office of the Attorney General - 1-800-226-6667, website: [www.myfloridalegal.com/pages.nsf](http://www.myfloridalegal.com/pages.nsf). The right to receive information on available crisis intervention services and local community services to include counseling, shelter, legal assistance, or other types of help, depending on the particular circumstances. Telephone numbers for these services are provided at the end of this brochure. (sec. 960.001(1)(a)1, Florida Statutes)
- The right to receive information regarding the stages of the criminal justice or juvenile justice processes and the way information about such stages may be obtained. (sec.960.001(1)(a)4, Florida Statutes)
- A victim who is incarcerated has the right, upon request, to be informed and submit written statements at all stages of the criminal and juvenile proceedings. (sec.960.001(1)(a)6, Florida Statutes)
- The right to receive information on the steps available to law enforcement and the State Attorney's Office to protect you from intimidation and/or harassment. It is a third-degree felony to knowingly use intimidation or physical force; threaten another person or attempt to do so; engage in misleading conduct toward another

person; or offer pecuniary benefit or gain to another person. If you are being threatened or intimidated, please contact the State Attorney's Office at 305-547-0100 or any law enforcement officer. (sec. 960.001(1)(c), Florida Statutes)

- The right of the victim of domestic violence to be informed of the address confidentiality program administered through the Attorney General's Office. You may contact the Attorney General's Office at 1-800-226-6667. The State Attorney's Office may assist with this paperwork if necessary. (sec. 960.001(1)(c), Florida Statutes)
- The right of each victim, or witness, who has been scheduled to attend a criminal or juvenile justice proceeding to be notified as soon as possible by the agency or person scheduling his/her appearance of any change in scheduling which will affect the victim's or witness's appearance. (sec. 960.001(1)(d), Florida Statutes)
- The right to receive advance notification of judicial and post judicial proceedings relating to the case, including all proceedings or hearings relating to:
  - The arrest of the accused.
  - The release of the accused pending judicial proceedings, and any modification of release condition to include release to community control or work release.
  - Proceedings in the prosecution or petition for delinquency of the accused, including the filing of the accusatory instrument; the arraignment; disposition of the accusatory instrument; trial or adjudicatory hearing, sentencing or disposition hearing; appellate review; subsequent modification of sentence; collateral attack of a judgment; and when a term of imprisonment, detention, or involuntary commitment is imposed, the release of the defendant or juvenile offender from such imprisonment, detention or juvenile offender from such imprisonment; detention or commitment by expiration of sentence or parole and any meeting held to consider such release. (sec. 960.001(1)(e), Florida Statutes)
- In addition to the provisions of sec. 921.143, Florida Statutes, the rights of the victim of a felony involving physical or emotional injury or trauma, or in a case in which the victim is a minor child or in a case involving a homicide, the guardian or family of the victim shall be

consulted by the State Attorney in order to obtain the views of the victim or family about the disposition of any criminal or juvenile case brought about as a result of such crime, including their views about:

- The release of the accused is pending judicial proceedings.
  - Plea Agreements.
  - Participation in pretrial diversion programs.
  - Sentencing of the accused. (sec. 960.001(1)(g), Florida Statutes)
- The right to request that the State Attorney or law enforcement agency help you explain to employers and creditors that you may face additional burdens by taking time off from work to assist law enforcement and you may undergo serious financial strain either because of the crime or by cooperating with authorities. (sec.960.001(1)(i), Florida Statutes)
  - Law Enforcement agencies and the State Attorney shall inform you of your right to request and receive restitution and of your rights of enforcement in the event an offender does not pay. The State Attorney shall seek your assistance in the documentation of your losses for the purpose of requesting and receiving restitution. If an order of restitution is converted to a civil lien or civil judgment against the defendant, the Clerk of Court's office shall make available at their office, as well as on their website, information provided by the Secretary of State, the court, or The Florida Bar on enforcing the civil lien or judgment. The State Attorney shall inform you if and when restitution is ordered. (sec. 960.001(1)(j), Florida Statutes)
  - The right to receive reasonable consideration and assistance from employees of the State Attorney's Office, Sheriff's Office, or Police Department. When requested, you will be assisted in locating accessible transportation and parking and shall be directed to separate pretrial waiting areas when such facilities are available. When requested, you shall receive assistance in attempting to locate translators when practicable. (sec. 960.001(1)(n), Florida Statutes)
  - The right of the victim of a sexual offense to have the courtroom cleared, with certain exceptions, during his or her testimony, regardless of the victim's age or mental capacity. (sec. 960.001(q), Florida Statutes)

- The right to request, in certain circumstances, that the offender be required to attend a different school than the victim or siblings of the victim. If the victim of an offense committed by a juvenile is a minor, the victim or any sibling of the victim attends or is eligible to attend the same school as that of the offender, the Department of Juvenile Justice or the Department of Corrections shall notify the victim's parent or legal guardian of the right to attend the sentencing or disposition of the offender and request that the offender be required to attend a different school. (sec. 960.001(1)(s), Florida Statutes)
- The right of the victim who is not incarcerated to not be required to attend discovery depositions in any correctional facility. (sec. 960.001(6), Florida Statutes)
- The statutory obligation of the victim, parent/guardian of a minor victim, or next of kin of a homicide victim, that any information gained pursuant to Chapter 960, Florida Statutes, regarding any case handled in juvenile court, must not be revealed to any outside party, except as reasonably necessary in pursuit of legal remedies. (sec. 960.001(8), Florida Statutes)
- The right to know in certain cases and at the earliest possible opportunity, if the person charged with an offense has tested positive for hepatitis and human immunodeficiency virus (HIV) infection. In such cases, upon request of the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, the court shall order such person to undergo hepatitis and HIV testing within 48 hours after the charging document is filed or 48 hours from the date of request. (Section 960.003, Florida Statutes)
- The right of a victim of a sexual offense to request the presence of a victim advocate during the forensic medical examination. An advocate from a certified rape crisis center shall be permitted to attend any forensic medical examination. (sec.960.001(1)(u), Florida Statutes)
- If a victim has been diagnosed with autism or an autism spectrum disorder, he or she or the parent or guardian, has the right to request that a public safety official make a good faith effort to ensure that a related professional, such as a mental health counselor, special education instructor or clinical social worker be present for all interviews of the individual. All expenses related to the attendance of the professional at the interviews are the responsibility of the requesting victim, parent, or guardian; however, the defendant shall

reimburse the victim for all expenses related to the attendance of the professional at the interviews, in addition to restitution and penalties provided by law. (sec. 943.0439, Florida Statutes)

- The right of a victim, if contacted, to obtain information relating to a criminal proceeding by an attorney, investigator, or any other agent acting on behalf of the criminal defendant, to be informed of (1) the person's name and employer and (2) the fact that such person is acting on behalf of the defendant. (sec. 960.001(1)(v), Florida Statutes)

***Note: You cannot be notified if we cannot locate you. It is your responsibility to keep the State Attorney's Office informed of any changes to your address or telephone number.***

## DOMESTIC VIOLENCE

**Domestic Violence, it isn't just wrong, it's a crime. No one, not even someone you live with, has the right to hit you or threaten you with violence. Knowing your rights and options is the first step toward ending the abuse.**

### WHAT IS DOMESTIC VIOLENCE?

Under the provisions of Section 741.28, F.S., domestic violence means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. A family or household members are spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

This includes acts such as:

**Physical Abuse**—pushing, slapping, kicking, punching, choking, and beating (Section 741.30F.S.).

**Emotional/Verbal Abuse**—threats, verbal intimidation, following and stalking, or acting out in anger (Section 741.30 F.S.).

**Sexual Abuse/Battery**—any unwanted touching or forcing of someone to engage in a sexual act against his/her will (Section 784.046 F.S.).

## **WHAT IS SEXUAL VIOLENCE?**

Under the provisions of Section 784.046 of the Florida Statutes, sexual violence is one incident of-

- Sexual battery, as defined in chapter 794;
- A lewd or lascivious act, as defined in chapter 800, committed upon or in the presence of a person younger than 16 years of age;
- Luring or enticing a child, as described in chapter 787;
- Sexual performance by a child, as described in chapter 827; or

Any other forcible felony wherein a sexual act is committed or attempted, regardless of whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney.

## **WHAT IS DATING VIOLENCE?**

Under the provisions of Section 784.046 of the Florida Statutes, dating violence is violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:

- A dating relationship must have existed within the past 6 months;
- The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and
- The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship.

The term does not include violence in a casual acquaintanceship or violence between individuals who only have engaged in ordinary fraternization in a business or social context.

## **WHAT IS REPEAT VIOLENCE?**

Under the provisions of Section 784.046 of the Florida Statutes, repeat violence means two incidents of violence or stalking one of which must have been within 6 months of filing a petition and must have been directed against the petitioner or the petitioner’s immediate family member.

## **WHAT IS HUMEN TRAFFICKING?**

Under the provisions of Section 787.06 of the Florida Statutes, Human Trafficking means the recruitment, harboring, transportation, or obtaining a person through force, fraud, or coercion, for the purpose of a commercial sex act in which the person induced to perform such an act is under 18 years of age.

**Procuring a Person under the Age of 18 for Prostitution—** (Section 796.03 F.S.)

**Lewd or Lascivious Offenses—**sexual activity committed upon or in the presence of a person less than 16 years of age (Section 800.04 F.S.).

## **WHAT IS REPEAT VIOLENCE?**

Under the provisions of Section 784.046 of the Florida Statutes, repeat violence means two incidents of violence or stalking one of which must have been within 6 months of filing a petition and must have been directed against the petitioner or the petitioner’s immediate family member.

## **WHAT IS STATLKING?**

Under the provisions of Section 784.048 of the Florida Statutes, stalking occurs when a person willfully, maliciously, and repeatedly follows, harasses, or cyber stalks another person. Aggravated stalking occurs when that person makes a credible threat to that person through stalking.

## **WHAT DOES THE LAW MEAN?**

You have the right to ask the State Attorney to file a criminal complaint, and you have the right to go to court and file a petition requesting an injunction for protection against domestic violence, repeat violence, dating violence, sexual violence, or stalking if you are:

- The victim of domestic violence, repeat violence, dating violence, sexual violence, or stalking.

- The parent of any minor child living at home who is seeking an injunction for protection against domestic violence, repeat violence, dating violence, sexual violence, or stalking OR
- If you have reasonable cause to believe, you or your minor child is in imminent danger of becoming the victim of any act of domestic violence.

This may include, but need not be limited to provisions that:

- Direct the abuser to leave your household.
- Restrain the abuser from any contact or further acts of abuse as a “no contact” condition of pretrial release, which will prevent the abuser from being within 500 feet of your residence, vehicle, school, business, or place of employment.
- Award you custody of your minor child or children.
- Direct the abuser to pay support to you and the minor child or children if the abuser has a legal obligation to do so

For safety reasons, you may furnish your address to the court in a separate confidential filing when filing the petition for injunction.

You are not required to remain in a residence or household where you are a victim of domestic violence. Your address may be different from that of your partner without penalty.

## **I AM A VICTIM AS DESCRIBED ABOVE**

If you are the victim of domestic violence, physical, emotional, verbal, or sexual abuse or battery, dating violence, human trafficking, prostitution under the age of 18, or lewd or lascivious offenses upon or in the presence of someone under the age of 16 or if you have reasonable cause to believe you are in imminent danger of becoming the victim of any act of domestic violence, you have the right to file a petition for injunction for protection against domestic violence. If you are a victim of repeat violence, dating violence, sexual violence, or the parent of any minor child who is living at home and who seeks an injunction for protection against repeat, dating, or sexual violence on behalf of the minor child, or you genuinely fear repeat violence, you may ask the state attorney to file a criminal complaint. You also have the right to go to file a petition for injunction for protection against repeat violence, dating violence, or sexual violence.

This may include, but need not be limited to provisions that restrain the abuser from further acts of abuse; direct the abuser to leave your household; and prevent



the abuser from entering your residence, school, business, or place of employment. The Clerk of the Court is required to assist you in seeking both injunctions for protection and enforcement for a violation of an injunction. Representation by an attorney is not required of either party. (Section 741.30(1) (f) F.S.).

When obtaining an injunction, it may also include the following:

- Awarding you custody of your minor child or children
- Directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so.

For safety reasons, you may furnish your address to the court in a separate confidential filing when filing the petition for injunction. You are not required to remain in a residence or household where you are a victim of domestic violence. Your address may be different from that of your partner without penalty.

## **HOW CAN THE LAW HELP ME?**

If you have been a victim of domestic violence, if the abuser has hurt you sexually or physically, or if you are afraid that you will be hurt, Florida's domestic violence law enables you to work with the court system to help keep you safe. Contact your local domestic violence center for safety planning prior to filing an injunction.

Go to the Clerk of the Court's Office in your county courthouse.

- Bring identification.
- Bring information about where the abuser can be located.
- Bring any other information on the abuser, such as photos or identification.
- Bring any papers relating to your case.
- Tell the clerk that you are interested in filing a petition for an injunction for protection against domestic violence, repeat violence, dating violence or sexual violence.
- The Court of Clerk will help you in filing the proper paperwork. By filling out these forms, you will be explaining to the judge exactly what type of protection you need and from whom you need protection.
- After you have completed the paperwork, the court may determine that danger of domestic violence exists. The court may order a temporary

injunction, which is good for 15 days. Then a full hearing is held to consider your safety and the safety of your children.

- The abuser must be served with the injunction before it becomes effective. The injunction will tell the abuser what the judge requires and when to return to court for a hearing. This hearing will be within 15 days unless the abuser cannot be served.

**IF YOU NEED ASSISTANCE WITH FILING A RESTRAINING ORDER, CALL THE  
C.G.P.D. VICTIM/WITNESS UNIT AT (305) 460-5471.**

## **SEXUAL BATTERY**

### **WHAT IS SEXUAL BATTERY?**

In the State of Florida, the legal term for the crime of rape or sexual assault is sexual battery (chapter 794, F.S.).

Sexual battery means - oral, anal or vaginal penetration by, or in union with, the sexual organ of another or the anal or vaginal penetration of another by any other object committed without that person's consent (if that person is an adult).

Consent means- intelligent, knowing, and voluntary consent and does not mean/include coerced submission. The law says that consent does not mean the failure by the alleged victim to offer physical resistance to the offender.

If the victim is under 16 years of age, consent cannot be used as a defense to a sexual crime. Further, a 16- or 17-year-old cannot legally consent to sexual activity with a person in a position of familial or custodial authority or to a person 24 or older.

### **SEXUAL BATTERY IS A CRIME**

A victim of sexual battery can report the crime to law enforcement and can ask State Attorney (sometimes referred to as prosecutor) to file a criminal complaint against the offender(s). A victim has the constitutional right to be informed, to be present, and to be heard at all crucial stages of a criminal or juvenile proceeding, to the extent that this right does not interfere with the constitutional rights of the of the accused. If you are the victim of a sexual crime, you have certain rights. Supportive services are also available to you free of charge regardless of whether you continue with the criminal justice process.

## **HELP IS AVAILABLE**

Anyone who has been the victim of a sexual crime should be treated with compassion, sensitivity, and caring. Dealing with the feelings and issues resulting from the crime can be overwhelming and confusing. Services including hotline, Crisis intervention and advocacy are available to you free of charge from your local certified rape crisis center.

### **VICTIMS ADVOCATES CAN:**

- Help you understand in greater detail many of the issues described in this brochure.
- Assure you that your reactions are normal.
- Listen to your feelings and concerns.
- Help you understand and weigh your options.
- Be with you at appointments if you desire.
- Contact others on your behalf with your permission.

## **RAPE CRISIS CENTERS**

Rape crisis centers are legally and ethically required to protect your confidentiality (Florida Statute §90.5035). Unless you specifically ask them to release information about you in writing with your signature, no information will be released.

Call 1-888-956-7273 to be referred to local services.

## **WHAT HAPPENS DURING A FORENSIC EXAMINATION?**

Often when a sexual crime has occurred, the victim is examined by a registered nurse or doctor.

In a designated private area, the medical professional will conduct a head-to-toe examination checking for injuries and will collect evidence which may include a pelvic exam and taking photos.

### **THE VICTIM HAS A RIGHT TO:**

- Decline any part of the examination at any point.
- Keep the exam confidential.
- Have an advocate present from a certified rape crisis center.

The medical professional will ask the victim some questions about the crime and his/her medical history. The medical professional also may:

- Take blood, urine, saliva, pubic hair combings, and /or nail samplings.
- Place items of the victim's clothing into the exam kit.
- The medical professional can prescribe medications to protect the victim from certain sexually transmitted infections and recommend follow-up medical care.
- HIV prevention medication may be available if that is of particular concern to the victim and should be started right away.
- A victim who is concerned about pregnancy as a result of the crime should be provided with medically accurate information about the option to receive or purchase emergency contraception to prevent pregnancy. Emergency contraception should be started within 120 hours of the crime and is available over the counter to women 18 and older at many pharmacies.
- The exam is free regardless of whether or not the victim is pursuing criminal charges against the offender although the victim might be responsible for medications and additional healthcare costs.

## **WHAT IF I FEAR FOR MY SAFETY?**

- Both adult and minor victims of sexual crimes who fear for their safety or fear the offender might contact them can seek a sexual violence injunction (Florida Statute §784.046) sometimes referred to as a restraining order or protection order.
- Victims under the age of 18 can file for an injunction or their parents or legal guardians may file for them.
- To obtain the injunction the victim or guardian must have reported the crime to law enforcement and cooperate in any criminal proceeding against the offender.
- Victims may also seek an injunction against an offender who has been released from jail or prison or who will be released within 90 days.
- Filing for a sexual violence injunction is free.
- The application can be made at a local courthouse with the assistance of a court clerk.

## **VICTIM COMPENSATION**

Victims of sexual crimes may be eligible for financial assistance for:

- Medical care
- Lost income
- Mental health services
- Other out-of-pocket expenses directly related to the injury.

Victims wishing to apply for assistance, check on the status of their applications, or in need of any other assistance can contact:

The Division of Victim Services within The Office of the Attorney General toll free- 1-800-226-6667 (or) for further assistance Contact the Victim/Witness unit (305) 460-5471.

## **VICTIMS OF SEXUAL CRIMES HAVE RIGHTS!**

Victims of Sexual Crimes have various other rights, many of which are found in Chapter 960 of the Florida Statutes, including the right:

- To have information relating to the criminal investigation of the crime that might identify the victim kept confidential and exempt from public records (Florida Statutes §119.071 and §92.56).
- To have an advocate from a certified rape crisis center present during the forensic examination.
- To have an advocate present during a discovery deposition (a defense attorney's pre-trial questioning of witnesses).
- To have the offender, if charged with the crime, tested for HIV and to receive the results of that testing.
- To attend the sentencing or disposition of the offender and request that the offender be required to attend a different school if the offender goes to the same school or the victim's siblings.
- To be notified of judicial proceedings and scheduling changes.
- To have information concerning release of the offender from incarceration from a county jail, municipal jail, juvenile detention facility, or residential commitment facility.

- To be consulted by the state attorney about the disposition of the criminal or juvenile case.
- To request restitution.
- To submit an oral or written impact statement.
- To not be asked or required to submit to a polygraph examination or other truth-telling device as a condition of proceeding with the investigation of the offense.
- To take up to three days of leave, which can be paid or unpaid at the discretion of the employer, to deal with issues that arise from the crime if the employer has 50 employees or more and the employee has worked for the employer for at least three months, provides some documentation of the crime, and has used other available leave (Florida Statute 741.313).

## **INFORMATION AND REFERRALS**

The Coral Gables Police Department Victim/Witness Unit is a link between the victim, the Criminal Justice System, and available services. It provides the tools that aid victims in regaining control of their lives after the crime.

For assistance contact the Victim/Witness Unit:  
(305) 460-5471 / fax (305) 460-5442

## **ASSISTANCE PROVIDED**

- Crisis intervention / Safety planning
- Assistance for filing orders for protection
- Domestic Violence relocation /shelter assistance
- Information and referral to local agencies
- Emergency financial assistance (upon availability)
- Criminal Justice support/orientation
- Transportation and accompaniment to court
- Property Return Assistance
- Address Confidentiality

- Legal & Immigration referrals
- Assistance with filing Office of the Attorney General Victim Compensation Claim Form

## **WHO IS ELIGIBLE FOR COMPENSATION?**

- Any victim who receives a personal injury.
- Survivors of someone killed as a result of a crime, including DUI and Hit & Run.
- Elderly or adults with a disability who have suffered property loss as a result of the crime.
- A witness to a crime.

## REFERRAL NUMBERS

Police Non-Emergency Number..... (305) 442-1600  
Emergency..... **911**

### Office of the Attorney General

#### Bureau of Victim Compensation and Address Confidentiality

Program.....1-800-226-6667

<https://www.myfloridalegal.com/victim-compensation>

VINE .....1-877-846-3435

[www.vinelink.com](http://www.vinelink.com) and/or download phone App.

*VINE provides custody status and criminal case information.*

*Registration is required for this service.*

Coordinated Victim Assistance Center (CVAC)..... (305) 285-5900

Survivor’s Pathway..... (786) 275-4364

Citrus Health Network..... (305) 825-0300

Trauma Resolution Center ..... (305) 374-9990

Parents of Murdered Children ..... (954) 612-3114

Children’s Bereavement Center ..... (305) 668-4902

MADD (Mothers against Drunk Driving) ..... (305) 273-3744

FDLE Sexual Predator& Offender Info ..... 1-877- 414-7234

<http://offender.fdle.state.fl.us>

Jobs for Miami ..... (305) 759-6511

## IMPORTANT NUMBERS-STATE ATTORNEY’S OFFICE

### Katherine Fernandez Rundle

Main Office ..... (305) 547-0100

Juvenile Division ..... (305) 636-7500

County Court Division ..... (305) 324-2900

Criminal Intake Division ..... (305) 547-0250

Misdemeanor Domestic Violence Unit ..... (305) 349-5830

Domestic Crimes Unit ..... (305) 547-0150



**Sexual Battery Unit ..... (305) 547-0115**  
**Children & Special Needs Center ..... (305) 547-0163**  
**Robbery/Career Criminal Unit ..... (305) 547-0350**

## 24-HOUR HOTLINES

**Switchboard of Miami ..... (305) 358-HELP (4357)**  
Provides crisis counseling, information, and referral.

**Roxcy Bolton Rape Treatment Center ..... (305) 585-RAPE (7273)**  
If you or a child is a victim of a sexual assault, it is very important that you contact the Rape Treatment Center (Jackson Memorial Hospital) immediately. They provide medical treatment, pregnancy prevention, disease prevention and counseling. Trained physicians are available to collect important evidence for your criminal case if needed.

**Florida Council Against Sexual Violence ..... 1-888-956-7273**  
[www.fcasv.org](http://www.fcasv.org)

**Rape, Abuse, & Incest national Network ..... 1-800-656-4673**  
(RAINN)

**Child, Elderly & Disabled Abuse ..... 1-800-96-ABUSE (22873)**  
This hotline enables you to report abuse directly to Florida's Department of Children and Family Services. If you have knowledge of, or believe such abuse is taking place, you must, by law, report it to DCF. It's the LAW. It is also advisable to call the Police.

**Florida Domestic Violence Hotline ..... 1-800-500-1119**

**National Domestic Violence Hotline ..... 1-800-799-7233**

**Childhelp National Child Abuse Hotline ..... 1-800-422-4453**  
Provides crisis counseling, information & referrals.

**National Center for Missing & Exploited Children  
(NCMEC).....1-800-THE-LOST (843-5678)**  
<https://takeitdown.ncmec.org>

NCMEC operates the CyberTipline is an online reporting system for all types of online child sexual abuse. They respond to millions of reports of online child sexual abuse every year. In addition, they offer numerous resources and assistance to victims and survivors of child sexual abuse.

**National Teen Dating Abuse Hotline ..... 1-866-331-9474**

**Human Trafficking Hotline..... (305) 350-5567**

**National Runaway Switchboard ..... 1-800-786-2929**  
[www.1800runaway.org/](http://www.1800runaway.org/)

## SHELTERS

### Miami/Miami Beach

- Miami Rescue Mission ..... (305) 571-2250
- Camillus House ..... (305) 374-1065
- Camillus House Project Phoenix- ..... (786) 631-2245  
For human trafficking victims.
- Salvation Army ..... (305) 637-6720

#### WOMEN ONLY:

- Safespace North ..... (305) 758-2546
- Safespace South ..... (305) 245-5011
- Safespace Central ..... (786) 801-6500
- Lotus House ..... (305) 438-0556
- Mother Theresa ..... (305) 545-5699

### Ft. Lauderdale

- Women in Distress ..... (954) 761-1133  
Also provide services for male survivors of Domestic Violence

### Marathon

- Domestic Abuse Shelter, Inc. .... (305) 743-4440  
For individuals and families experiencing domestic abuse

- West Palm Beach ..... (561) 655-6106

## LEGAL SERVICES

- Americans for Immigrant Justice ..... (305) 573-1106
- Florida Bar Lawyer Referral Service ..... 1-800-342-8060
- Dade County Bar Association ..... (305) 371-2220
- Legal Aid Society ..... (305) 579-5733
- Legal Services of Greater Miami ..... (305) 576-0080

### VIDA Legal Assistance

Immigration Legal Assistance

- North Office ..... (786) 601-6234
- South Office ..... (305) 247-1057

### Cuban American Bar Association

- (CABA) Pro Bono Project ..... (305) 646-0046

# NOTES

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**Coral Gables Police Department 305-442-1600**  
**Victim /Witness Unit 305-460-5471**

According to the Americans with Disabilities Act, persons that need special accommodations to participate in the judicial process should call (305) 447-0100, hearing impaired call (TDD) Florida Relay Service at 1-800-955-8771.

Nationally Accredited Law Enforcement Agency