

Charlotte County Sheriff's Office

VICTIM RIGHTS BROCHURE

YOUR RIGHTS AS A VICTIM OR WITNESS:

We realize that for many persons, 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 (SAO) and/or the appropriate law enforcement agency (LEA) handling your case.

Charlotte County Sheriff's Office
7474 Utilities Rd. Punta Gorda, FL 33982
(941) 639-2101



(English) Revised 01/2016

CRIMINAL JUSTICE PROCESS

CRIME COMMITTED- After a crime is reported to law enforcement an investigation will be conducted. If law enforcement is able to collect enough evidence, they may make an arrest.

ARREST- Suspect(s) taken to jail, fingerprinted, and photographed. Some are immediately released or have to post a bond to ensure they will show up in court.

(or)

INTAKE – Victim reports a crime to the local State Attorney’s Office. If probable cause is found, the State Attorney’s Office may choose to file charges and summons the suspect into court.

FIRST APPEARANCE - Occurs within 24 hours of an arrest. Each suspect kept in jail must appear before a Judge who establishes whether charges are reasonable. The Judge will also consider whether a bond should be set and if so how much. The Judge will also consider conditions of release and appoint a defense attorney if the suspect cannot afford one.

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.

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

TRIAL PREPARATIONS- The prosecutor and defense attorney interview witnesses and exchange evidence in preparation for trial.

TRIAL – 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.

PLEA- Defendant pleads guilty or no contest without a trial.

SENTENCING- If the defendant is found guilty; the Judge reviews sentencing guidelines, plea agreements, etc., and determines what type of sentence the defendant should receive.

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- 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.

You may contact your State Attorney or law enforcement agency for more information regarding the stages of the criminal and juvenile justice process.

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 important to 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.

VICTIM – A person against whom a crime was committed. Some victims suffer physical injury or property damage, and some have psychological injury or both. Victims have certain rights in Florida. Others who can claim these rights are the victim’s parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim’s parent or guardian if the victim is a minor, and the next of kin of a homicide victim. As a victim of a crime, you have the following rights:

1. Either you or the State Attorney’s Office with your consent, have standing to assert any legal rights of a crime victim as provided by law or The Florida Constitution.
2. In some cases, victims (or their relatives where the victim is deceased) may be eligible for financial compensation from the State of Florida. Information regarding eligibility may be obtained from the State Attorney’s Office, local Witness Coordination Office (where available), law enforcement agency or from the Bureau of Crimes Compensation, Office of the Attorney General (1-800-226-6667).
3. 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 of these services are provided at the end of this brochure.
4. The right to receive information regarding the role of the victim in the criminal or juvenile process, including what the victim may expect from the system as well as what the system may expect from the victim.
5. The right to receive information regarding the stages of the criminal or juvenile justice process and the manner in which information about such stages may be obtained. ***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 in your address or telephone number.***
6. The right to be informed, present, and heard when relevant, at all crucial stages of a criminal or juvenile proceeding, to the extent the right does not interfere with the constitutional rights of the accused.
7. The right, if you are incarcerated, to be informed and submit written statements at all crucial stages of the criminal and juvenile proceedings.

8. The right to a prompt and timely disposition of the case as long as it does not interfere with the constitutional rights of the accused.
9. The right to be notified of the arrest and release of the offender, including release to community control and/or work release. When an arrest is made in a reported case, the victim, witnesses, relatives of minor victims and witnesses and relatives of homicide victims, where those persons have provided current addresses and telephone numbers to the Charlotte County Sheriff's Office shall be notified.
10. 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, or threaten another person, or attempt to do so, or 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 Charlotte County Sheriff's Office or any law enforcement officer.
11. 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 paper work if necessary.
12. 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 appearance.
13. 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, 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.
14. The right to not be excluded from any portion of any hearing, trial or proceeding pertaining to the offense based solely upon the fact that such person is subpoenaed to testify, unless the court determines otherwise.
15. In addition to the provisions of s. 921.143, F.S., 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 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 pending judicial proceedings.
 - Plea Agreements.
 - Participation in pretrial diversion programs.
 - Sentencing of the accused.
16. The right to review certain portions of a pre-sentence investigation report for adult and youthful offenders prior to the sentencing of the accused.
 17. The right to a prompt return of property unless there is a compelling law enforcement need to retain it.
 18. 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.
 19. 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 clerks 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.

20. The right to submit an oral or written impact statement to the court, pursuant to s. 921.143 F.S., prior to sentencing of the offender. The State Attorney or any assistant state attorney shall advise all victims or, when appropriate, the victim's parent, guardian, next of kin, or lawful representative that statements, whether oral or written, shall relate to the facts of the case and the extent of any harm, including social, psychological, or physical harm, financial losses, loss of earnings directly or indirectly resulting from the crime for which the defendant is being sentenced, and any matter relevant to an appropriate disposition and sentence.
21. 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.
22. The right to be notified when the offender escapes from custody. The State Attorney shall make every effort to advise the victim, material witness, parents or legal guardian of a minor who is a victim or witness, or immediate relative of a homicide victim of the escape of a criminal defendant. The State Attorney shall also notify the Sheriff of the

county where the criminal charge or petition for delinquency arose. The Sheriff shall offer assistance upon request.

23. The right of the victim to request that a victim advocate be permitted to attend and be present during any deposition. The victim advocate may be designated by State Attorney's Office, Sheriff's Office, or Municipal Police Department, or one representative from a not-for-profit victim services organization, including, but not limited to, rape crisis centers, domestic violence advocacy groups, and alcohol abuse or substance abuse groups.
24. 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.
25. 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, and 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.
26. The right of the victim who is not incarcerated to not be required to attend discovery depositions in any correctional facility.
27. The statutory obligation of the victim, or next of kin of a homicide victim, that any information gained pursuant to FS Chapter 960, regarding any case handled in juvenile court, must not be revealed to any outside party, except as reasonably necessary in pursuit of legal remedies.
28. The right to know in certain cases and at the earliest possible opportunity, if the person charged with an offense has tested positive for human immunodeficiency virus (HIV) infection and hepatitis. 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 HIV testing and hepatitis. In some cases, you can be notified of the results of the test within two weeks of the court's receipt of the results.
29. The right to request, for specific crimes, that your home and work telephone numbers, home and work addresses, and personal assets not be disclosed to anyone.
30. The right of the victim 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.
31. No law enforcement officers, prosecuting attorney, or government official shall ask or require a victim of a sexual offense to submit to a polygraph examination or other truth telling device as a condition of the investigation.

**NOTICE OF LEGAL RIGHTS AND REMEDIES FOR VICTIMS OF DOMESTIC
VIOLENCE, DATING VIOLENCE, REPEAT VIOLENCE, SEXUAL VIOLENCE**

It isn't just wrong, it's a crime.

DID YOU KNOW?

- In Florida, a person is killed by a family member every 36 hours.
- Domestic Violence is the leading cause of injury to women.
- More than 124,000 incidents of domestic violence are reported in Florida each year in involving victims regardless of age, male and female.

YOU HAVE RIGHTS....

**KNOWING YOUR LEGAL RIGHTS AND OPTIONS IS THE
FIRST STEP TOWARD ENDING ABUSE.**

WHAT IS DOMESTIC VIOLENCE?

Under the provisions of 741.28 of the Florida Statutes, 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 commons, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

Domestic Violence includes:

Physical Abuse – Pushing, slapping, kicking, punching, choking, and beating

Emotional/Verbal Abuse – Verbal intimidation, credible threats, following and stalking, acting out in anger

Sexual Abuse or Battery – Any unwanted touching or forcing of someone to engage in a sexual act against his or her will

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, or
- 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 STALKING?

- Under the provisions of Section 784.048 of the Florida Statutes, stalking occurs when a person willfully, maliciously, and repeatedly follows, harass, 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

- 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.
- Direct the abuser to leave your household
- 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.

HOW CAN THE LAW HELP ME?

If you have been a victim of domestic violence, repeat violence, dating violence, sexual violence, stalking, 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 for an injunction. 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 as per Section 741.30(1)(f) of the Florida Statutes. 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 injunction for protection against domestic violence, repeat violence, dating violence, or sexual violence.
- The Court 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 the safety of you and 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.
- You are able to request notification of service of the injunction and receive notice automatically within 12 hours after the injunction is served.
- It is important for you to attend the hearing so that you can make sure the judge understands exactly what help you need and why. If you do not attend, usually the judge will end the injunction.
- After the hearing, a final injunction may be granted. The final injunction is valid until dissolved or amended by the court.

WHAT DO I DO IF THE ABUSER VIOLATES THE INJUNCTION?

You will receive a copy of the injunction. Keep it with you at all times.

- If the abuser violates the conditions of the injunction, call the police right away.
- The abuser may be arrested.
- If the abuser is arrested, he/she will be held until the court determines bail.
- The judge will consider your safety and the safety of your children.
- You may go to court if you wish.
- The court may order penalties as allowed by law.

If the injunction has been violated, report the violation to the Clerk of the Circuit Court only if law enforcement states it cannot issue an arrest warrant, or issue a notice to appear because there is no criminal violation. Report the violation in the in the county where the violation occurred

and complete an affidavit in support of the violation. The judge will determine what action should be taken for your safety and the safety of your children. Under the provisions of Section 741.315(2), Florida Statutes, if you have an out of state court order for protection against domestic violence, federal and state law provides that law enforcement recognize and act on the protections in the order as if issued by a Florida court, as long as the issuing court gave the accused the opportunity for a hearing before issuing the order. This includes orders issued by courts from the District of Columbia, Indian tribes, commonwealth territories, or possessions of the United States.

EXEMPT FROM PUBLIC INSPECTION

Under the provisions of s. 119.071 (2) (j) of the Florida Statutes any information which reveals the home or employment telephone number, home or employment address, or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence is exempt from public inspection and examination.

You must make a written request and provide official verification, such as a law enforcement report, to the custodian of records that an applicable crime has occurred. Such information shall remain exempt 5 years, after which it will become available to the public.

WHOM SHOULD I TALK TO FOR MORE INFORMATION?

- Florida Domestic Violence Hotline- 1-800-500-1119
 - (For Legal Assistance hit prompt #3)
- Florida Abuse Hotline- 1-800-962-2873
 - (To file confidential reports of child abuse)
- National Child Abuse Hotline- 1-800-422-4453
 - (24 hour help line which provides crisis counseling, information and referrals)
- National Domestic Violence Hotline- 1-800-799-7233
- National Teen Dating Abuse Hotline- 1-866-331-9474
- Center for Abuse & Rape Emergencies, C.A.R.E.(941) 627-6000
- Children and Families- (941) 613-2000
- Office of the State Attorney- (941) 637-2104
- Judicial Offices- (941) 639-3111
- Juvenile Justice- (941) 575-5700

YOUR CASE INFORMATION:

CHARLOTTE COUNTY SHERIFF'S OFFICE
941-639-2101

CASE NUMBER: _____

DATE OF REPORT: _____

OFFICERS NAME/I.D. NUMBER:

According to Florida Statute 741.29- "IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you may ask the state attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an injunction for protection from domestic violence which may include, but need not be limited to, provisions which restrain the abuser from further acts of abuse; direct the abuser to leave your household; prevent the abuser from entering your residence, school, business, or place of employment; award you custody of your minor child or children; and direct the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."