



NORTH CAROLINA

Victim Assistance
Network

Surviving Violent Crime Handbook





Table of Contents

Dedication and Introduction	4
Overview of NCVAN Services	6
Emotional Aftermath of Crime	8
Support Groups and Professional Counseling	12
Crime Victim Rights in North Carolina	14
Crime Victims' Rights Act Comparison Chart	30
Victim Assistance Programs	31
Crime Victim Compensation and SAVAN Information	32
Understanding the Criminal Legal System and Court Process	33
Types of Hearings	36
Restitution	37
Important Considerations for Victims Attending Court	38
Title VI of the Civil Rights Act of 1964	40
Human Trafficking in NC	42
General Courthouse Guidelines and Testifying Tips	45
Crime Victims and the Media	46
Important Information About Post-Conviction	47
Glossary of Legal Terms	48
Websites and other Resources	52
Reading Materials for Loved Ones of Homicide Victims	54
Recording Important Information	55

Dedication

This handbook is dedicated to all survivors of violent crime, who through their struggles with pain, fear, anger, and loneliness, have graced our lives by guiding us where we were reluctant to go, teaching us what we were afraid to know, and sharing with us the beauty found in the will of the human spirit to survive and expand through acts of compassion, courage, resilience, and hope.

Introduction

This handbook has been written specifically for you. Knowing more about the emotional aftermath of victimization and about the criminal legal system can help you feel more prepared. The material contained in this handbook can help you understand the aftereffects of the crime. We know that this information will not solve all of your problems or answer all of your questions. At the same time, we hope that it will serve as a useful guide to explain how and where to find help.

After a violent crime, it is common to experience overwhelming sadness, anger, guilt, confusion, or even numbness. These reactions may interfere with relationships and increase feelings of isolation. Whatever you are facing right now, it is important to keep in mind that we all cope with the aftermath of violent crime in our own unique way. The path toward healing may be aided by talking about what happened with people you trust – people who support you without judging you or telling you what you should do or how you should feel and who can listen no matter how many times you need to talk.

Most importantly, we hope that you will feel less alone, better understood and comforted by the knowledge that there are many people who genuinely care about you and your well-being.



Acknowledgements

The North Carolina Victim Assistance Network (NCVAN) wishes to extend our appreciation to all those who have contributed their time and resources to the Surviving Violent Crime handbook. This project was supported by Grant No. 2018-V2-GX-0061 awarded by the Office for Victims of Crime, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication, program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office for Victims of Crime.

About the North Carolina Victim Assistance Network

The North Carolina Victim Assistance Network (NCVAN) is a statewide nonprofit 501(c)(3) organization founded in 1986. Through advocacy, training and technical assistance, NCVAN supports the rights and wellbeing of surviving loved ones of homicide victims and others harmed by violent crime in North Carolina. NCVAN is the only statewide community-based organization in North Carolina that provides direct support to survivors of homicide as well as victims of violent crimes. NCVAN also connects victims with direct assistance available in their communities, sponsors training seminars and public awareness events, and develops resources for victims, service providers, and allied professionals.

What Services Does NCVAN Provide?

Information, Support, Advocacy and Referrals (Statewide)

We inform crime victims and survivors of their rights and provide general information about the criminal legal process, Crime Victim Compensation, post-conviction notifications and other resources. NCVAN operates a Bilingual Advocacy Line that provides support in English and Spanish.

NCVAN Victim Service Practitioner Certification Academy

NCVAN's Academy is the recognized state victim assistance academy in North Carolina. The Academy is also approved by the National Advocate Credentialing Program (NACP). Upon completion of the Academy, students are eligible for Provisional Credentialing with the National Organization for Victim Assistance (NOVA). Law enforcement attendees may receive credit from the N.C. Justice Academy for participating.

NCVAN Advanced Academy

NCVAN offers specialized trainings on select topics of interest around the state. In doing so, the NCVAN Advanced Academy provides practitioners a means to remain engaged and challenged in the work, and to renew understanding of emerging practices as we enhance our support to victims of crime. Additionally, NCVAN's Director of Training and NCVAN's Law Enforcement Specialist together develop specialized law enforcement training. Currently, the Victim Response Law Enforcement App is available for free download to provide immediate resource information to all law enforcement in North Carolina. The free download in the app store is listed as "NCVAN Victim Response."

Homicide Victim Services Program (Statewide)

Our Homicide Victim Services Program provides travel reimbursement for up to three loved ones of homicide victims when they attend hearings for cases in which a life has been taken by violence. It includes any means of travel and requires receipts in order for claims to be processed.

Homicide Advocacy Program (Wake, Ongoing Expansion)

NCVAN's Homicide Advocacy Program (HAP) provides information & referral, advocacy, and court accompaniment to loved ones of homicide victims. Court accompaniment is provided by staff & trained volunteers and is available in Wake County with ongoing expansion. Volunteers also donate & assemble court care kits and provide support to NCVAN services. Further, the NCVAN Director of Outreach and Language Access works with marginalized communities to ensure underserved victims of crime have access to services.

NCVAN Support Groups

NCVAN and its community partners have set up monthly support group meetings for loved ones of homicide victims. NCVAN trains qualified mental health professionals to facilitate each meeting and continues to host during the pandemic by utilizing the HIPAA compliant version of Zoom. In June 2022, NCVAN added a state-wide support group for survivors of gunshots, stabbings, and physical assaults.

Grief Counseling (Statewide)

Through the Homicide Victim Services Program, NCVAN identifies qualified grief counselors to provide counseling sessions to interested surviving loved ones of homicide victims statewide.

For more information about NCVAN, additional resources, or to find help for a victim/survivor, visit us online at www.nc-van.org or call us at (800) 348-5068 or (919) 831-2857

“Grief is love, that has no place to go...” - Roshi Joan Halifax



Emotional Aftermath of Crime

Dealing with the emotional aftermath of crime is not easy. However, knowing common reactions to a traumatic event can help. No one is prepared to become a victim of crime or to have a family member or friend victimized by violent crime. After a sudden, traumatic event, many people report that they feel they are “going crazy” or that there is something wrong with them when in fact they are experiencing what most others deal with after such an event. It can be reassuring to know that there are several common emotional experiences reported by persons who have been victimized. However, not everyone responds to a traumatic event exactly the same way. This information is provided so that you can know and prepare for what you and those close to you might experience. At the same time, each individual might experience trauma and loss differently and at different times.

Be aware that the thoughts and feelings that people often experience after a violent crime do not progress along a predictable sequence or timetable. Thoughts and feelings often come and go unexpectedly and can vary from hour to hour, day to day. We encourage you to be patient and kind with yourself and those around you as you move through this often-confusing time. Time does not heal all wounds. Patience, proper care, and support over time can help the healing journey progress toward less distress, more peace, and more joy. It is often wise to seek the counsel of a therapist, medical doctor, or support group just to help navigate life after a violent crime.

- ***Shock and Numbness***

Soon after learning of a violent crime, you may be in a state of shock. Feelings of numbness, confusion, and disorientation are commonly reported. You may feel detached – like you are an outsider observing an unreal world. Numbness and shock protect us from feeling overwhelmed. Eventually, of course, we need to feel and move through the pain. Shock and numbness can help us function in the moment and then deal with the pain fully when we are ready.

- ***Difficulty Accepting the Reality***

Don't be surprised if you or loved ones have difficulty fully acknowledging losses or even accepting the reality of what has happened. This very common experience is sometimes called “denial.” While the term “denial” might sound negative to you, it sometimes actually helps us deal with day-to-day responsibilities that are not possible under the full weight of a violent loss. Denial is nature's way of protecting us until we can cope with the full impact of the trauma.

- ***Fear and Anxiety***

You may experience intense fear and startle easily. Leaving your home or being alone may cause you a great deal of anxiety. You may be fearful that the assailant will return and harm you and/or your loved ones again – whether or not that is a realistic possibility.

- ***Difficulty Trusting***

Once you have been harmed by a violent crime, it is natural to be fearful and suspicious of others. Something that is never supposed to happen has happened. Difficulty trusting, like many other reactions after a violent crime, are the way our brains try to protect us. Difficulty trusting and being suspicious of others can extend to our relationships with strangers, friends, family members, co-workers, law enforcement, medical providers, and others.

- ***Anger/Rage***

Anger is a very common reaction to victimization. In fact, many say the word “anger” is not strong enough to describe their experience and that “rage” better describes their feelings. You might feel intense anger towards the person(s) responsible for the victimization and you might have fantasies of revenge. Fantasizing about revenge does no harm in the short term. It often helps to tell a trusted friend or professional about these fantasies, and of course, please don’t act on them. Your anger may be directed at family and friends, your doctors or therapist, or professionals in law enforcement and the court system. You might feel rage that you seem to have no rights while the person accused of the crime has many rights and protections. You might feel anger toward anyone who you feel is insensitive to your pain or anyone who seems able to go about their lives as if nothing happened. You may also be angry with yourself. If a violent crime has taken a loved one, you might even feel angry at that loved one. Acknowledge your feelings of anger and find safe and healthy ways to express it. Remember that anger is a natural part of the healing process. As with other emotions, it is important to feel these feelings and move through them. Becoming stuck in anger can be especially harmful.

- ***Guilt***

Some of these common but intense and confusing angry feelings can also lead to feelings of guilt. In addition, many people blame themselves in some way. You may find yourself thinking or saying, “if only I had ...” Seeking reasons for the crime is a way of trying to regain a sense of control over your life. Talking with someone about these complicated and confusing feelings of guilt is extremely important.

- ***Spiritual Issues***

While some lean more heavily on their faith, spirituality, and religious community after violent loss, many others feel the need to distance from religion and from anything that reminds them of their religion/faith for a time. These issues can be complicated by the fact that sometimes members of our faith communities don’t know what to say or what to do after a violent loss.

- ***Grief, Sadness, Depression, Emotional Pain***

Crime creates loss. It can be the loss of control, the loss of security, the loss of trust, the loss of innocence, the loss of health, and/or the loss of the future you envisioned living with your loved one. You will likely feel loss and sadness. You may experience change in your normal sleeping and eating patterns. Life may seem flat and meaningless, and you may lose interest in activities or people that were previously important to you. You might not even feel like getting out of bed or off the sofa. You may experience mood swings, irritability, fatigue, and diminished sexual interest. There may be an ebb and flow pattern to your grief. Emotions are a part of being human. Emotions are healers. The way through the pain is through the pain.

- ***Finding a Way Forward and a New Normal***

You have experienced a shocking blow to your sense of security and expectations of life. You might feel betrayed by life and even devastated as you process complicated losses. Some of you have been broadsided by the most senseless violence imaginable. Acknowledging the finality of your loss and the reality that life will never be the same again can actually prepare and empower you to navigate the twists and turns of the road ahead. Yes, painful emotions will arise for a long time, triggered by an anniversary date or birthday or other life event. But know that others on this path have found surprising peace, sweeter memories, unexplainable strength and a new way of being connected with who and what they've lost – and so can you. A way forward to a new normal is possible – but it will likely take time.

- ***Making Meaning and Pursuing What Matters***

Our brains are wired to try to make sense of the world – even when something completely senseless has happened. Well-meaning people who want to help might say to you, “everything happens for a reason.” In reality, violent crime is senseless and without reason. In an effort to find meaning, loved ones of homicide victims sometimes reach a point where they pursue changes in law, write, speak, and find ways to help others who have a similar experience, create scholarships or nonprofits in their loved one's memory, and more. Some ways of making meaning are very visible; others are not so visible. These pursuits may or may not become part of your healing journey.

- ***Trauma and Seeking Help***

Sometimes traumatic events cause a change in your internal alert system. Ordinary events – a phone ringing, a knock at the door, certain smells, a siren several blocks away, or any sort of loud sound – can heighten your startle response and can send thoughts racing.

Even very ordinary events can ***feel like*** threats to one's safety and security. After a traumatic event many people report nightmares, flashbacks (to what you actually saw or imagine to have happened), a sense that you are re-living a frightening event, thinking constantly about an event, excessive avoidance of reminders of the event, not being able to calm down, being easily upset or irritated, or feeling a deep sense of despair and hopelessness. Please don't hesitate to seek additional support from trusted friends and from professionals during these times. Seeking professional assistance is especially important if these experiences disrupt your life or continue for a long period of time. It is not uncommon for those impacted by violent crime to experience forms of Depression and/or Post-Traumatic Stress Disorder (PTSD). These conditions are considered heightened but normal reactions to abnormal, frightening, and shocking events.



Support Groups and Professional Counseling

I was terrified the first time I attended a support group. Now, however, that group is the best club that I never wanted to belong to.”

- Loved One of a Homicide Victim

You have just experienced a life-altering event. Many people find support groups, individual and/or family counseling helpful in the aftermath of a violent crime.

Help, understanding, compassion, and support are available through support groups. These groups provide a space to be heard, to learn from, and to give and receive support among others who are most likely to understand the experience of violent loss. NCVAN offers support groups for loved ones of homicide victims across North Carolina. Some of these groups meet in person; others are available online. In addition, groups are sometimes provided by faith communities or fellow victim/survivors. These groups offer mutual support and a network of understanding within an atmosphere of acceptance that is beyond comparison. By sharing a common bond of having been through similar life-altering experiences, participants support one another in the process of rebuilding their lives.

Before joining a group, it is important to consider your personal needs as well as the focus of the support group. Some prefer a faith-based group while others do not. It is important to find a group that feels safe, understanding, and supportive to YOU. It is important to find a group that is specific to your type of victimization. Contact NCVAN, your local mental health center, or a victim assistance program for referrals to support groups in your area.

For information about the NCVAN Online Support Group, contact us at info@nc-van.org.

“It was a great relief to have someone to talk to who would in no way pass onto others what I thought, felt or did at that confusing time.”

- Loved One of a Homicide Victim



If you are not comfortable in a group setting, one-on-one counseling may be a more appropriate choice for you. Talking with a counselor who has experience with crime survivors can be extremely helpful. Sometimes it is especially helpful to see a professional who has training in working with people with Post-Traumatic Stress Disorder (PTSD). Sharing your experience and your feelings is a means of regaining some sense of control and taking care of yourself. Seeking counseling in the aftermath of a crime does not mean, “something is wrong with you” or “you’re not able to cope well.” It means you are taking positive steps to come to terms with your feelings. Your local mental health center or victim assistance program can refer you to qualified professionals within your own community.

NCVAN (1-800-348-5068) can refer you to agencies that can help and can sometimes help pay for counseling. Or you might want to search for a therapist who is a good fit near you using Psychology Today’s website: <https://www.psychologytoday.com/us/therapists>.

Crime Victim Rights in North Carolina

What Are My Rights as a Victim of a Crime?

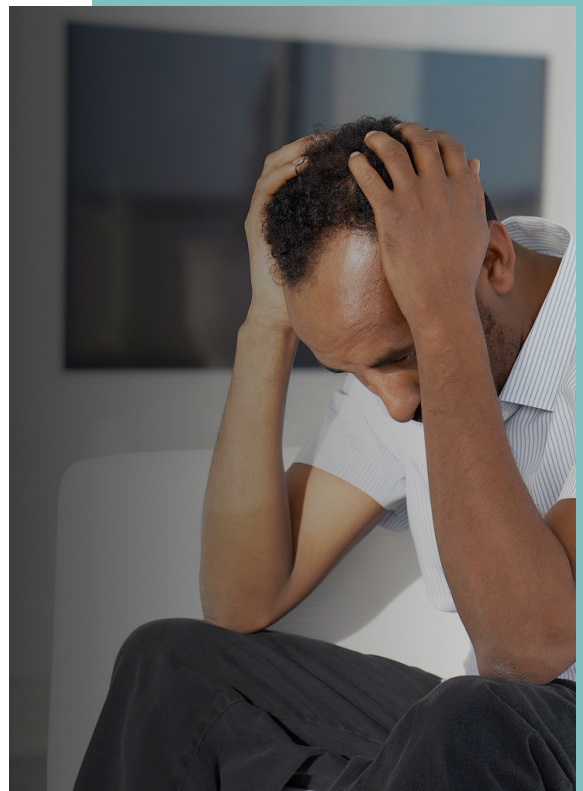
NCGS – Chapter 15A - Article 46: Crime Victims' Rights Act

In 1998 North Carolina Victim Assistance Network (NCVAN) championed the initial Crime Victims' Rights Act (CVRA) which compelled the criminal legal system to treat victims of crime in a dignified and respectful manner. The CVRA set forth rights to be afforded to crime victims which provided them with services and information as they moved through the criminal legal process. However, the 1998 CVRA failed to prescribe compliance and possible remedies (a means of legal reparation) if those rights were not provided by each of the responding disciplines (law enforcement and the District Attorney's Office).

In 2019 North Carolina endeavored to correct this short-coming with an enhanced version of the CVRA referred to as Marsy's Law. This enhanced amendment for North Carolina has incorporated compliance requirements for each agency, as well as remedies for violations of those rights should any violation occur. As a person who has been affected by crime, you have the right to know what each agency's responsibilities are to you throughout the criminal investigation and the judicial proceedings. You also have the right to assert a claim for rights' violations with the responsible agency. If that claim does not result in a reasonable resolution, you have the right to appeal.

NCVAN has worked diligently to bring the opportunity to North Carolina for victim's voices to be heard and considered. NCVAN advocated for Marsy's Law rights to modify and strengthen our current CVRA. It is NCVAN's intent to offer the following summary of this enhanced amendment so that you will be informed and better equipped to advocate for yourself.

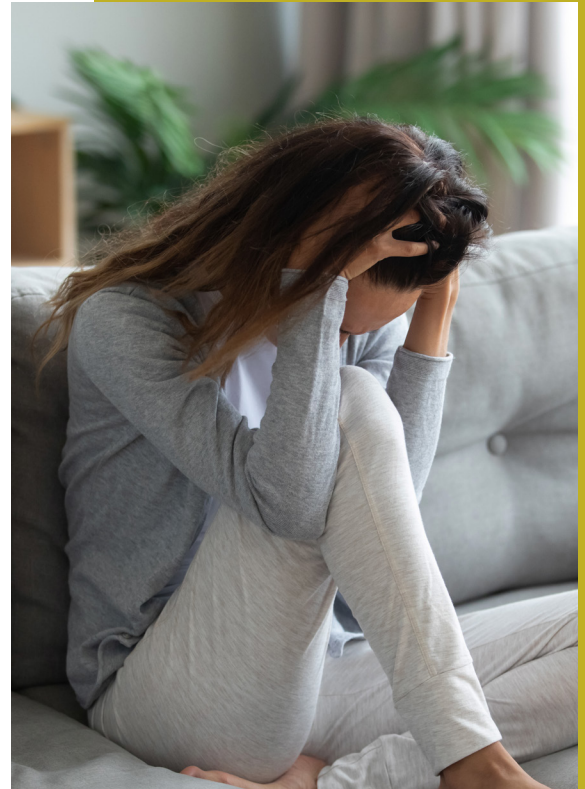
Please understand that NCVAN's summary of the CVRA is not legal advice, but a simpler explanation to ensure decisions made during a traumatic time are informed and accomplish the best outcomes for you as a victim.



Who is a Victim under NC Crime Victims' Rights Act?

“Victim. - A person against whom there is probable cause to believe an offense against the person or a felony property crime has been committed.” The CRVA added certain offenses against a person and/or property, as well as offenses or acts of delinquency to this definition. Under the CVRA, the category of victim is extended to include family members or the person legally responsible for the crime victim who is deceased as a result of the crime or, if the victim is a minor or is legally incapacitated. That person may be “a parent, guardian, or legal custodian, sibling or grandparent of the victim” or “a personal representative of the victim’s estate or family member may act on behalf of the victim.”

The CVRA states that the accused (person charged with the crime), even if he/she is a family member or legally responsible person of the victim, is not eligible to exercise these rights.



Critical Phases in the Criminal Legal Process:

When a crime occurs, there will be responding agencies who will be responsible for conducting the appropriate and legal response to victims of crime. Law Enforcement will commonly be the entry point for victims of crime as law enforcement will conduct an investigation and possibly charge the accused with a crime. Upon the arrest of the accused, the District Attorney’s Office will conduct the next phase within the judicial process and will be responsible for the case as it moves through the court process towards final disposition. At some point other professionals within the criminal justice system such as judicial officials, the Clerk’s Office and possibly, the Department of Community Corrections for Adults and Juveniles, may also be responsible for providing you with your entitled rights.



What are my rights under the NC-CVRA?

A victim of crime shall be treated with dignity and respect by the criminal justice system.

1. The right, **upon request, to reasonable, accurate, and timely notice of court proceedings of the accused.
2. The right, upon request, to be present at court proceedings of the accused.
3. The right to be reasonably heard at court proceedings involving a plea that disposes of the case or the conviction, sentencing, or release of the accused.
4. *** The right to receive restitution in a reasonably timely manner, when ordered by the court.
5. The right to be given information about the crime, how the criminal justice system works, the rights of victims, and the availability of services for victims.
6. The right, upon request, to receive information about the conviction or final disposition and sentence of the accused.
7. The right, upon request, to receive notification of escape, release, proposed parole or pardon of the accused, or notice of a reprieve or commutation of the accused's sentence.
8. The right to present the victim's views and concerns in writing to the Governor or agency considering any action that could result in the release of the accused, prior to such action becoming effective.
9. The right to reasonably confer with the district attorney's office.



****What is the significance of “upon request” in the CVRA? Why do I have to request my rights? Shouldn’t my rights be afforded to me automatically?**

Victims should “request” or “opt-in” to receive their rights. This means that when the District Attorney’s office informs you of your rights, you must in return communicate to the District Attorney’s office that you want to exercise those rights. Some victims do not want to participate in the criminal legal process and it is important that already over-burdened criminal justice officials are not expending energy to locate and inform victims who do not want to participate in court proceedings.



*****Please note that as a victim of a crime you have the right to receive restitution as ordered by the court pursuant to North Carolina General Statutes Chapter 15 - Article 81C.**

This means that at the sentencing hearing the court will determine whether or not to order restitution.

How will I receive the notifications mentioned in the CVRA?

It is important to know that the notification process will likely be different in each prosecutorial district. It is important that you ask questions of how specific notifications will happen when you speak to law enforcement and to the contact person for the District Attorney’s Office. It is in your best interest to remain aware of the notifications you are entitled during the investigation, pre-trial, during trial, and post-trial. Please remember that in order to remain informed you must ask the questions.

For the entire statute, see here:

https://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_15A/Article_46.pdf



What are Law Enforcement responsibilities to me as a crime victim?

Responsibilities of Law Enforcement:

As soon as possible BUT within 72 hours the law enforcement agency shall provide the victim/you with the following information in writing:

- The availability of medical attention if needed.
- The availability of crime victims' compensation funds to include the address and telephone number of NC Crime Victim Compensation.
- The address and phone number of the District Attorney's office that will be responsible for prosecuting the case.
- The name and telephone number of a person who works for the investigating law enforcement agency whom you may contact if you have not been notified of an arrest in your case within 6 months after the crime was reported to law enforcement.
- Information about the accused's opportunity for pre-trial release (release from jail before the court trial or plea).
- The name and telephone number of a person who works for the investigating law enforcement agency whom you may contact to find out if the accused has been released from jail.
- The information sheet if there was a personal relationship with the accused.
- A list of your rights as outlined in the Crime Victims' Rights Act.
- Information about any other rights afforded to victims by law.

When someone is arrested for the crime:

- Within 72 hours of receiving notification of the accused's arrest, the investigating law enforcement agency **will** notify the victim/you of the arrest.
- Within 72 hours of receiving notification of the arrest, the investigating law enforcement agency **shall** forward to the district attorney's office your name, address, phone number or other contact information unless you refuse to disclose this information and then law enforcement officers should inform the district attorney's office of this non-disclosure.
- Using a form provided by the investigating law enforcement agency, you should indicate whether or not you wish to receive further notification on the status of the accused's pre-trial process (before it goes to court).
- If you want to receive further notification you shall give the form to the law enforcement agency within 10 days of receiving the form. You are responsible for letting law enforcement know if you have changed your name, address or phone number.
- Upon receiving the form, law enforcement should promptly give the form to the district attorney's office so that the district attorney's office is aware of your preferences.

Pertaining specifically to victims of sexual assault:

A criminal or juvenile justice agency **shall not require** a person, claiming to be a victim of sexual assault or claiming to be a witness regarding the sexual assault of another person, to submit to a polygraph or similar examination. Such demands by an agency are not necessary for an investigation to be conducted.

If an agency wishes to perform a polygraph examination of a person claiming to be a victim or witness of sexual assault, the agency **shall** inform the person of the following:

- That taking the polygraph examination is voluntary.
- That the results of the examination are not admissible in court.
- That the victim/witness's decision to submit to or refuse a polygraph examination will not be the sole basis for a decision by the agency not to investigate the matter.
- If an agency declines to investigate an alleged case of sexual assault following a decision by a person (claiming to be a victim) **not** to submit to a polygraph examination, the agency **shall** provide to that person, **in writing**, the reasons why the agency did not pursue the investigation at the request of the person.



What are the judicial officials' responsibilities to me as a crime victim?

Judicial officials including judges, magistrates and the Clerk of Court's Office also have responsibilities to you.

Should you decide not to have a law enforcement agency involved in the reporting of a misdemeanor or crime against you or a law enforcement agency declines to investigate such a crime, you have the right to speak with a magistrate. The magistrate is an officer of the District Court. In criminal cases, a magistrate may issue criminal summons and warrants among other judicial tasks.

Upon a pleading (i.e. a warrant) being issued for any misdemeanor offense against the person based on testimony or evidence from a complaining witness rather than from a law enforcement officer, a judicial official shall:

- Record the defendant's name and the victim's name, address, and telephone number electronically or on a form separate from the pleading unless you have refused to disclose any or all of the information, in which case the judicial official shall so indicate.
- Deliver the court's copy of the warrant and victim-identifying information to the office of the clerk of superior court by the close of the next business day.
- Within 72 hours, the office of the clerk of superior court shall forward to the district attorney's office the victim-identifying information.

Please note that in any court proceeding subject to this Article, a judge shall inquire as to whether the victim is present and wishes to be heard. If you (victim) are present and wish to be heard, the court shall grant you an opportunity to be reasonably heard.

The court **shall** make every effort to provide a secure waiting area during court proceedings that does not place the victim in close proximity to the defendant or the defendant's family. The right to be reasonably heard **may** be exercised, at your discretion, through an oral statement, submission of a written statement, or submission of an audio or video statement.



What are the District Attorneys' responsibilities to me as a crime victim?

Responsibilities of the District Attorney's Office:

Within 21 days after the arrest of the accused, but not less than 24 hours before the accused's first scheduled probable-cause hearing, the district attorney's office shall provide you with a pamphlet or other written material that explains:

The responsibilities of the district attorney's office.

- You have the right to reasonably confer with the district attorney's office about the disposition of the case and the right to provide a victim impact statement.
- You have the right to be informed of eligibility for compensation under the Crime Victims Compensation Act and the deadlines by which the victim must file a claim for compensation.
- You have the right to be informed of the steps generally taken by the district attorney's office when prosecuting a crime.
- You have the right to receive suggestions on what a victim should do if threatened or intimidated by the accused or someone acting on the accused's behalf.
- You have the right to be informed of the name and telephone number of the witness assistant in the district attorney's office whom you may contact for further information regarding your case.

You, as the victim, have the responsibility, upon receiving the information and a form provided by the district attorney's office, to indicate whether you wish to receive notices of some, all, or none of the trial and posttrial proceedings involving the accused.

If you decide to receive these notices, you are responsible for notifying the district attorney's office or any other department or agency involved in your case of any changes in your address and telephone number or other contact information.

You may change the request for notification at any time by notifying the district attorney's office and completing the form provided by the district attorney's office.

If you are the victim of an act of delinquency, the district attorney's responsibility to you is extended if the juvenile's case is transferred to criminal court.

If you are a victim of a human trafficking offense the district attorney's office shall notify the Office of the Attorney General and Legal Aid of North Carolina, Inc., in addition to providing entitled rights. (see pg. 38)



During the court process (cont'd):

The district attorney's office **shall** notify you of the date, time, and place of all court proceedings of the type of which you have chosen to be notified.

All notices required to be given by the district attorney's office shall be reasonable, accurate, and timely. The notices shall be given in a manner that is reasonably calculated to be received by the victim prior to the date of the court proceeding. The district attorney's office may provide the required notification electronically or by telephone, unless the victim requests otherwise. The notifications shall be documented by the district attorney's office.

Whenever practical, the district attorney's office shall provide a secure waiting area during court proceedings that does not place you in close proximity to the defendant or the defendant's family.

The district attorney's office **shall** make every effort to ensure that your personal information is not disclosed unless otherwise required by law. The district attorney's office shall inform you that personal information such as the victim's telephone number, home address, and bank account number are not relevant in every case and that you may request the district attorney to object to that line of questioning when appropriate.

******The district attorney's office **shall** offer you the opportunity to reasonably confer with an attorney from the district attorney's office to obtain your views about (at a minimum) dismissal, plea or negotiations, sentencing, and any pretrial diversion programs.

Should the accused be found guilty and at the sentencing hearing, the prosecuting attorney **shall** submit to the court a copy of a form containing the identifying information about your decisions to receive further notices pertaining to this case.

At that point the clerk of superior court **shall** include the form with the final judgment and commitment, or judgment suspending sentence, to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety or other agency receiving custody of the defendant. This form shall be maintained by the custodial agency as a confidential file.

*****Prior to Sentencing:***

You have the right to (but are not required to) submit a Victim Impact Statement to the court to be considered during sentencing. Your written Victim Impact Statement becomes permanent part of the District Attorney's file.

The Victim Impact Statement may include:

- A description of any physical, psychological, or emotional injury sustained as a result of the offense committed by the accused.
- An explanation of any economic or property loss.
- A request for restitution and an indication as to whether you have applied for or received crime victim's compensation.
- At your request and with the consent of the defendant, the district attorney's office or a law enforcement officer may offer evidence of the impact of the crime to the court.



What if my Crime Victims' Rights are violated?

Enforcement of Crime Victim's Rights:

If you believe that your rights as a crime victim have been violated and one or more criminal justice agencies have not fulfilled their responsibility to you, you have the right to file a written complaint. The procedure by which you may assert your rights shall be by motion to the court of jurisdiction (where the court proceedings are held).

For this complaint to be heard you (as the victim of the crime) or the following individuals may act on your behalf:

- The victim's attorney.
- The prosecutor, at the request of the victim.
- A parent, guardian, or legal custodian, if the victim is a minor or is legally incapacitated.
- A family member, if the victim is deceased.

Step 1: Filing a Complaint with the Violating Agency:

When a claim is made that a violation of your rights provided in this Article has occurred by the law enforcement agency conducting the investigation or the District Attorney's Office prosecuting the case, these first steps must occur:

- If an allegation involves a law enforcement agency who failed to comply with rights to be provided to you, then you must first file a written complaint with that agency. The agency is then given an opportunity to resolve the issue stated in the written complaint in a timely manner.
- If an allegation involves the district attorney's office who failed to comply with rights to be provided to you, then you must first file a written complaint with the district attorney's office. The district attorney's office is then given an opportunity to resolve the issue stated in the written complaint in a timely manner.

Step 2: If you feel that the response by the given agency is not a reasonable resolution or your complaint regarding a violation of your rights is by judicial official:

Please note that you have the right to consult with an attorney regarding an alleged violation of the rights provided in this Article, but you do not have the right to counsel provided by the State.

- You may file a motion within the same criminal proceeding giving rise to the rights alleged to be violated with the office of the clerk of superior court in the court where the case is pending, alleging violation of your rights.
- Upon request, the form provided by the clerk of superior court will indicate what specific right has allegedly been violated and a description of the alleged violation in detail. No fees shall be assessed for the filing of this motion.
- The motion must have attached a copy of the written complaint that was previously filed with the law enforcement agency or district attorney's office that failed to comply with the rights of a victim provided in this Article. The motion must be filed within the same criminal case that you believe your rights are not being upheld.
- A copy of the filed motion shall be given to the agency that you allege has violated your rights.
- If it involves the District Attorney's Office, a copy of the motion shall be given to the prosecutor (if other than the elected District Attorney), the elected District Attorney, and the judge involved in the criminal proceeding that gave rise to the rights in question.
- If the motion involves an allegation that a law enforcement agency failed to comply with the rights of a victim, a copy of the motion shall also be provided to the head of the law enforcement agency referenced in the motion.
- A judge is notified by the clerk of court that a victim has filed a motion alleging a violation of the rights provided in this Article.

- The judge shall review the motion and dispose of it or set it for hearing in a timely manner.
- Review may include conferring with the victim, the prosecutor if other than the District Attorney, and the District Attorney in order to inquire as to compliance with this Article. If the motion involves an allegation that a law enforcement agency failed to comply with the rights of a victim provided by this Article, the judge may confer with the head of that law enforcement agency as part of the review.
- If the judge is involved in the criminal case pertaining to the rights in question, the judge may, on the judge's own motion, recuse (excuse) himself or herself if justice requires it and report the recusal to the Administrative Office of the Courts. The Administrative Office of the Courts may then appoint another judge who will conduct the judicial tasks required by this Article.
- At the conclusion of the review, the judge shall dispose of the motion or set the motion for hearing.



Step 3: Failure of the judge to review/dispose in a timely manner:

- If the judge fails to review the motion and dispose of it or set it for hearing in a timely manner, you may petition the North Carolina Court of Appeals for a writ of mandamus.
- A writ of mandamus is a court order issued by a judge at a petitioner's request compelling someone to execute a duty that they are legally obligated to complete.
- The writ of mandamus can be used to order a task to be completed, or in other cases, it may require an activity to be ceased.
- The petition shall be filed without unreasonable delay. The court for good cause shown may shorten the time for filing a response.



What Rights Do I Have After Court is Over?

POSTTRIAL RESPONSIBILITIES:

After the trial is over, within 30 days after the final court proceeding in the case, the district attorney's office **shall** notify you, in writing, of:

- The final disposition of the case.
- The crimes of which the defendant was convicted.
- The defendant's right to appeal, if any.
- The telephone number of offices to contact in the event of nonpayment of restitution by the defendant.

Should the defendant in the case appeal this conviction to the Court of Appeals or the Supreme Court, and dependent upon the circumstances of this appeal, the Attorney General's office shall provide you with the following:

- A clear and concise explanation of how the appellate process works, including information about possible actions that may be taken by the appellate court.
- Notice of the date, time, and place of any appellate proceedings involving the defendant.
- This notice shall be given in a manner that is reasonably calculated to be received by you prior to the date of the proceedings.
- The final disposition of an appeal.

Although you as the victim do not have a right to be heard at this appeal process, you are permitted to be present at any appellate proceeding that is an open hearing.

What happens if the defendant has been released on bail pending the outcome of the appeal?

The agency that has custody of the defendant shall notify the investigating law enforcement agency as soon as practicable, and **within 72 hours of receipt of the notification the investigating law enforcement agency shall** notify you that the defendant has been released.

Should the defendant in the case appeal this conviction to the Court of Appeals or the Supreme Court, and dependent upon the circumstances of this appeal, the Attorney General's office shall provide you with the following:

- A clear and concise explanation of how the appellate process works, including information about possible actions that may be taken by the appellate court.
- Notice of the date, time, and place of any appellate proceedings involving the defendant.
- This notice shall be given in a manner that is reasonably calculated to be received by you prior to the date of the proceedings.
- The final disposition of an appeal.

Although you as the victim do not have a right to be heard at this appeal process, you are permitted to be present at any appellate proceeding that is an open hearing.



What happens if the defendant's conviction is overturned, and the district attorney's office decides to retry the case or the case is then sent to the superior court for a new trial?

You **shall** be entitled to the same rights under this Article as if the first trial did not take place.

What are my rights when the Defendant is incarcerated?

Upon the judge giving a final judgement and moving into the commitment phase of a trial, what rights am I entitled to?

Responsibilities of the agency with custody of the Defendant:

When a form requesting notification is included with the final judgment and commitment, or when you have filed a written request for notification with the custodial agency (jail/prison facility), the custodial agency **shall** notify the victim of the following within 60 days of the date the custodial agency takes custody of the defendant or within 60 days of the event requiring notification, or as otherwise specified:

- The projected date by which the defendant can be released from custody. The calculation of the release date **shall** be as exact as possible, including earned time and disciplinary credits if the sentence of imprisonment exceeds 90 days.
- An inmate's assignment to a minimum custody unit and the address of the unit.
- This notification **shall** include notice that the inmate's minimum custody status may lead to the inmate's participation in one or more community-based programs such as work release or supervised leaves in the community.
- Your right to submit any concerns to the agency with custody and your right to be made aware of the procedure for submitting such concerns.



- The defendant's escape from custody, within 72 hours, except if you have notified the agency in writing that the defendant has issued a specific threat against the victim, the agency shall notify you as soon as possible and within 24 hours at the latest.
- The defendant's capture, within 24 hours.
- The date the defendant is scheduled to be released from the facility. Whenever practical, notice **shall** be given 60 days before release. In no event shall notice be given less than seven days before release.
- The defendant's death.
- The procedure for alleging a failure of the custodial agency to notify the victim as required by this section.

What are my rights if the Defendant is given probation?

If the defendant is sentenced to probation or post-release supervision, whether they are an adult or a juvenile, the agency responsible for this supervision is Community Corrections—Adult Correction and Juvenile Justice.

The Community Corrections Division is responsible for and shall notify you of the following within 30 days of the event requiring notification, or as otherwise specified:

- The defendant's regular conditions of probation or post-release supervision, special or added conditions, supervision requirements, and any subsequent changes.
- The date and location of any hearing to determine whether the defendant's supervision should be revoked, continued, modified, or terminated.
- The final disposition of any of the above hearings.
- Any restitution modification.
- The defendant's movement into or out of any intermediate sanction.
- The defendant's absconding supervision, within 72 hours.
- Within 72 hours of the capture of a defendant following his or her absconding.
- The date when the defendant is terminated or discharged.
- The defendant's death.

What rights am I entitled to should the Defendant be pardoned or the sentence commuted?

If the defendant is pardoned (forgiven); or if the sentence is commuted (reduced), then you are entitled to be informed by the Governor's Clemency Office of these decisions.

Notice of a pardon or commuted sentence:

- The Governor's Clemency Office **shall** notify you when it is considering commuting the defendant's sentence or pardoning the defendant.
- The Governor's Clemency Office **shall** also give notice that you have the right to present a written statement to be considered by the Governor's Clemency Office before the defendant's sentence is commuted or the defendant is pardoned.
- The Governor's Clemency Office **shall** notify you of its decision. This notice shall be given in a manner that is reasonably calculated to allow for a timely response to the commutation or pardon decision.

Pursuant to this Article:

No money damages:

*This Article, including the provision of a service pursuant to this Article through the Statewide Automated Victim Assistance and Notification System established by the Governor's Crime Commission, **does not create a claim for damages against** the State, a county, or a municipality, or any of its agencies, instrumentalities, officers, or employees.

*You cannot sue the State, a county, or a municipality, or any of its agencies, instrumentalities, officers, or employees for damages.



What other rights do I have that may help me as a victim of a crime?

You have the right to an interpreter if English is NOT your primary language:

- The court shall require an interpreter (at the state's expense) for any court proceeding involving a party who speaks a language other than English as their primary language and has a limited ability to read, speak, or understand English.
- If you are scheduled to appear in a court proceeding for which interpreters are needed at state expense, you or your attorney should submit a request for an interpreter to the local Language Access Coordinator (LAC). Written requests should be submitted electronically by completing the Request for Spoken Foreign Language Court Interpreter Form.
- Requests for interpreters should be submitted at least 10 business days prior to the scheduled court proceeding.
- If you have not requested an interpreter prior to the court date, you should notify the courtroom clerk or magistrate that you need an interpreter as soon as you arrive for the court proceeding. If the LAC does not have sufficient time to find a qualified court interpreter, your proceeding will be continued

<https://www.nccourts.gov/programs/office-of-language-access-services/do-you-need-a-court-interpreter>

You have the right to hire an attorney:

The District Attorney is representing the interests of the state and since your interests as a crime victim and the interests of the state are closely aligned, the district attorney is interested in including your voice as proceedings begin and move forward. However, they must balance the victim's needs with that of the community at large and the safety of the general public.

You may hire your own attorney to ensure you have representation that focuses exclusively on your rights and needs as a crime victim. Your attorney will not participate in the prosecution of the accused.

You have rights regarding Rape Kit Testing:

"The Survivor Act" for sexual assault victims for whom a forensic examination was performed after the assault are provided rights to be informed on requirements that include specific timelines for various aspects of processing by agencies involved and specific protocols for how all unprocessed kits shall be tracked.

For more information on the Survivor Act:
<https://ncdoj.gov/wp-content/uploads/2019/09/Survivor-Act-Law-Fact-sheet.pdf>

These requirements are designed to assure the timely processing by health providers, law enforcement, and the State Crime Lab of the resulting "rape kits". The results of the testing eventually become part of the evidence in the case and are uploaded to CODIS, a nationwide law enforcement database. The law now also requires law enforcement agencies to establish review teams to survey their entire untested SAECK inventory to determine a priority submission order for testing.

The Public Protection Section of the Attorney General Office can address questions and provide additional information by email at publicprotection@ncdoj.gov, or by calling (919) 716-6780. Victims have the right to opt in to participate in receiving regular updates regarding the status of the testing through a tracking system and portal developed by the Attorney General Office in 2018.

To access information about the portal: <https://www.sexualassaultkittracking.ncdoj.gov/SexualAssaultKitTracking/>

***For more
information on
the Crime Victims'
Rights Act,
please contact
NCVAN.***

Crime Victims' Rights Act Comparison Chart

This chart offers a quick comparison of our current North Carolina Crime Victim's Rights Act (Marsy's Law) to our previous CVRA so that you can better grasp what has changed from then to now.

2019 CVRA	Previous CVRA
A victim has a right "to be reasonably heard at any court proceeding involving the plea, conviction, adjudication, sentencing or release of the accused."	A victim has the right to be reasonably heard at sentencing of the accused "in a manner and at other times" as prescribed by law or deemed appropriate by the court."
If the victim is a minor or is legally incapacitated, a parent, guardian, or legal custodian may assert all of the minor's victim rights.	When a victim is mentally or physically incompetent or then the victim is a minor, the victim's rights may be exercised by the victim's next of kin or legal guardian.
A victim has the right to receive notifications from the DA's office in a reasonable, accurate, and timely method: electronically, by phone, or otherwise requested.	All notices by the district attorney's office shall be given in a manner that is reasonably calculated to be received prior to the date of the court proceeding.
Crime victims of an act of delinquency, that is against or involving the person of the victim or is equivalent to a felony property crime are afforded rights.	No specific rights afforded to victims of crimes by a juvenile defendant.
A victim may allege a violation of his or her victim's rights by a three step method: 1. victim seeks to reasonably resolve the alleged violation initially with the violating agency 2. if unsolved, then by motion to the clerk of superior court 3. finally if still unresolved, then by appeal to the NC Court of Appeals.	No specific enforcement process was afforded to victims of crime who alleged a violation of their victim rights.
Felony crimes against a person have been expanded. Felony property crimes have been included. Serious misdemeanors have been expanded if the elements of the offense involves communicating a threat or stalking.	Victims with specific felony crimes and serious misdemeanor offenses were afforded rights when the offense was committed between persons who have a personal relationship.
Division of Community Corrections/ Adult Correction and Juvenile Justice have responsibilities to crime victims associated with the post-trial sanctions.	Only division of Community Corrections/Adult Correction was responsible for post-trial rights for victims of crime.
A person who is a victim of a human trafficking offense is entitled to benefits and services. A person who is a victim of and/or witness to a sexual assault shall not be required to submit to a polygraph examination in order to have an investigation conducted into the matter,	There were no specific rights afforded to victims of human trafficking offenses. In NC Statute, polygraph examinations of specific crime victims contained limited responsibilities but no specific rights.

Victims must "request" or "opt-in" to receive their rights.

This means that when the District Attorney's Office informs you of your rights, you must in return communicate to the District Attorney's Office that you want to exercise all of your rights, some of your rights, or none of your rights.

Victims' Assistance Programs

NCVAN has services available to surviving loved ones of homicide victims and to other victims of crime. North Carolina has 90+ community-based programs that serve intimate partner and sexual violence victims. Many areas have child advocacy centers that provide services to child victims of abuse and neglect.

A number of law enforcement agencies and community partners employ victim advocates that serve crime victims. Legal Aid may also assist with civil representation in matters such as protective orders, housing, and visas for immigrant victims and victims of human trafficking. Services provided by community partners around the state may include:

- Crisis intervention and emotional support
- Assistance with safety-planning
- Assistance with emergency shelter, food, clothing
- Counseling and support groups (in-person and online)
- Legal information and court accompaniment
- Assistance with emergency orders including protective orders
- Assistance with North Carolina Crime Victim Compensation (to include crime scene clean-up)
- Referrals to counseling and additional agencies or programs that may be of help

For details or more services available in your community, visit www.nc-van.org or call NCVAN at (800) 348-5068 or (919) 831-2857.



Crime Victim Compensation Program

The State of North Carolina has a Victim Compensation Program to help eligible victims (regardless of their immigration status) with medical and counseling expenses, lost wages, emergency household support (in domestic violence cases only), replacement services such as child care while the victim recovers from injuries, funeral expenses to include transport of the deceased loved one (in the case of homicide), and crime scene clean-up. Compensation is not available for loss or damage of property, pain or suffering, or expenses paid by your insurance. The program does not cover loss as a result of a violation of motor vehicle law with the exception of injuries resulting from a drunk driver or a hit and run.

Please be aware that victims must file for compensation within two years of the date when injury occurred. Also medical expenses related to injuries received from the crime are only eligible for review during the one-year period following the date of the crime. If your court case is pending and you are receiving notices for crime incident related medical bills, you may contact the clerk of court for a letter to potentially postpone your payment obligation. For the most current guidelines and application forms in English and Spanish and to determine eligibility, contact the North Carolina Crime Victim Compensation office at (800) 826-6200 or (919) 733-7974.

SAVAN Information

The North Carolina Statewide Automated Victim Assistance and Notification (SAVAN/VINE), helps victims of crime access custody and court information about offenders. It is a free, 24-hour telephone service that is available in both English and Spanish. In addition, SAVAN automatically notifies registered victims of important events, such as release of an inmate or a scheduled court event. Offenders who are incarcerated in North Carolina state and some county detention facilities, or who are under community supervision, or whose cases are pending at the District Attorney's office will be included in the SAVAN service.

The SAVAN program is designed to provide you with quick and easy access to information on offenders confined in county jails. DO NOT depend solely on SAVAN or any other program for your safety. For more information on how to use SAVAN, call the Department of Public Safety Office of Victim Services at (919) 733-7974 or (866) 719-0108. To access the SAVAN service, dial 1-877-NC-SAVAN (1-877-627-2826) and follow the prompts.



Understanding the State Criminal Legal System

“Losing a family member to murder is not a single incident but a transforming of the soul, by agony, into a new and forever different form. After a murder, you are forced to deal not only with the sudden loss of someone you love more than anything, but also with a crime. In the midst of devastating personal grief, family members are forced to deal with the police and court system which can feel cold, practical, confusing, and unfeeling.” -Kate Lowenstein, Loved one of a homicide victim

Reporting Crime

In the North Carolina criminal legal system, victims can call 911, contact law enforcement and/or contact a magistrate and request a warrant.

NOTE: If you are reporting a crime that happened on a K-12 school, college or university campus, on a military installation or while on active duty, please contact NCVAN for additional information as these processes are separate from the state criminal legal system.

Investigating Crime

Law enforcement agencies are responsible for investigating crime. Law enforcement agencies differ in size, jurisdiction, and operational policies and procedures. Regardless of the law enforcement agency you contact, a victim of violent crime can expect the following to occur:

- An officer should respond immediately.
- If you are injured, medical assistance should respond immediately.
- A report will be filed.
- An investigation will be conducted and will continue until resolution or until disposition in court.
- If applicable, all evidence will be collected and all witnesses, including you, will be interviewed.
- You will be provided with information, either orally or in writing, about your rights as a victim, how to reach the investigating officer, availability of medical and financial assistance, court information, and how to contact the victim assistance programs in your area.

- Depending on the circumstances of your case, you may be asked to look at mug shots or line-ups, help with a composite drawing of the suspect, and return for follow-up interviews.

- If an arrest is made, the officer will attempt to notify you in person, by telephone, or in writing within 72 hours of the arrest.

When an arrest is made, the officer takes a photo and fingerprints of the offender, and then brings the offender before the magistrate to have the warrant drawn up and to have bail determined. Bail is money or property posted with the court to secure the defendant's appearance in court.

- Defendants in murder cases initially are not given bail. However bail may be requested by the defendant's attorney as the case moves forward.

- Defendants in domestic violence cases can be held up to 48 hours without bail.

- Bail can be increased or decreased by a judge.

- At bail /bond hearings, the judge may impose specific conditions such as no contact with the victim or witness in the case. If the defendant cannot post bail, he will remain in custody of the county jail until trial. If the defendant can post bail, he is re- leased from custody.

- The officers who worked on your case will be subpoenaed to testify in your court case.

- The officers will probably not call you each and every day with an update on your case because they are usually working on several cases at a time. If you have questions or concerns about your case please contact the agency assigned to the investigation.

Prosecuting Crime

Once the offender is charged with a crime, he/she is referred to as the Defendant. In North Carolina, the District Attorney's office has the responsibility of prosecuting the case on behalf of the State.

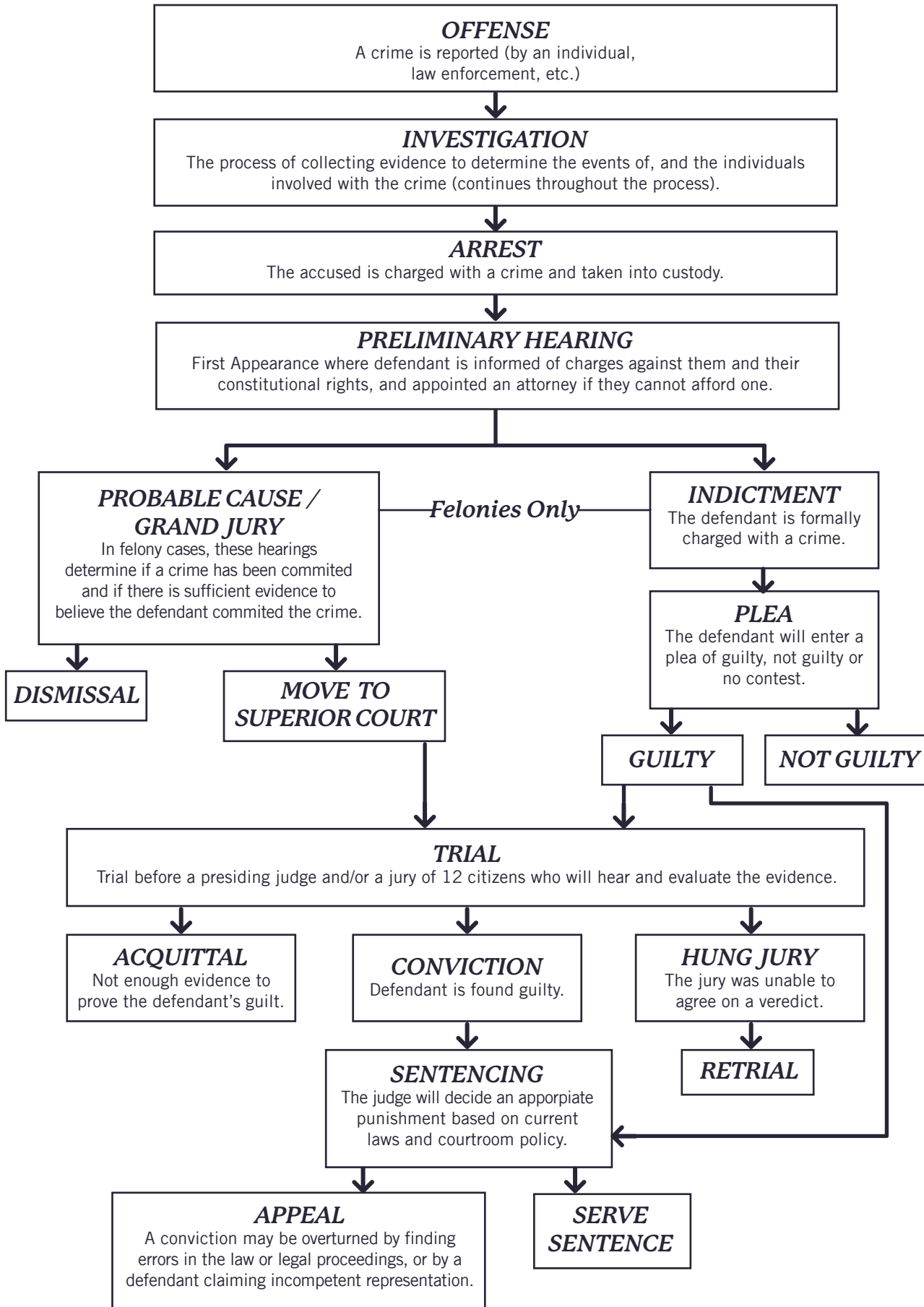
The case will be referred to as State of North Carolina vs. "Defendant." At this point, it is not the victim/survivor who decides how to proceed with the case, but rather the State represents the interest of the general public in keeping the community safe from the Defendant. However, the victim/survivor's interest should be considered by the District Attorney's office as the case moves toward conclusion.

The elected District Attorney (DA) or an Assistant District Attorney (ADA) will be assigned to your case and will represent the State. You may hire an attorney to represent you and to communicate on your behalf, but the authority and responsibility to prosecute all criminal matters belong to the District Attorney's Office.

Each District Attorney's office employs Legal Assistants (LA) who have the responsibility of serving as a liaison between you and the prosecutor assigned to the case. The LA should provide information that you may need. As a violent crime victim, you can expect the following:

- The DA's office may contact you by telephone or letter explaining your rights as a crime victim, give you information about the court process, and provide contact information for other services available to you in the community. They will request contact information for you and will ask you to keep that contact information up to date with their office. They will also ask you if you would like to be notified of all court proceedings involving the defendant.
- The LA may ask you to gather information about the emotional, physical, and economic impact of the crime and complete the Victim Impact Statement (VIS). A VIS is customarily sent to victims shortly after the DA receives the file from law enforcement. It asks a series of questions regarding the emotional, physical, and financial loss you have experienced as a result of the crime. Often, victims feel isolated and powerless. The VIS is an opportunity to participate in the criminal justice process. You may also opt out of the criminal justice process by completing the VIS and returning it to the DA's office. The court is bound by pre-determined guidelines at sentencing; if discretion is allowed, however, it is important that the judge have access to as much information as you can provide about how your life, or the life of your loved one, has been impacted by the offense committed against you or your loved one. The VIS allows you to participate in the criminal justice process, even if you choose not to attend court proceedings.
- If you need assistance with medical bills, the legal assistant may assist you in filing for Crime Victim Compensation. You can also ask the victim advocate to advise you of any other type of assistance for which you may qualify.
- You should be notified of all subsequent hearings involving the defendant if you request to be notified (remember to give the DA's office any changes in your address or phone number).

- You are not required to attend these hearings unless you receive a subpoena to appear in court, but it is your right to attend if you so choose.
- You can expect the case to take several months, sometimes longer than a year or more. The criminal justice process is slow and there are usually several cases in queue ahead of yours.
- You can expect postponements in your case called continuances. The defendant's attorney or the DA can request a continuance. It is up to the judge to grant or deny a request for a continuance.
- When your case is being prepared for trial, the DA's office may request a conference with you to discuss the case, your testimony, and possible outcomes. The DA may discuss a plea negotiation with you. A plea is a negotiated agreement between the DA and the defense attorney in which the defendant agrees to plead guilty to a lesser charge or to plead guilty to a charge on the condition that other charges be downgraded or dismissed. When deciding on a plea agreement, the DA must consider the strength of the case and its evidence, your ability and the ability of other witnesses to testify, and the defendant's prior criminal history. You have the right to confer with the DA about a plea agreement, but you do not have the right to dictate the terms of the plea agreement or to stop the DA from accepting a plea agreement.
- If you are not present at the trial, the DA's office should advise you of the disposition (outcome) of the case, including the judgment (sentence). If you are not contacted by the DA's office, you should contact them to follow up.



Types of Hearings

First Appearance Hearing

The first appearance hearing takes place in District Court soon after the defendant is charged with a crime. At this hearing, the judge informs the defendant of the charges, explains the defendant's constitutional rights, and answers the defendant's questions. During this hearing, the judge explains that the defendant has a right to an attorney and will appoint an attorney if the defendant cannot afford one. The judge will also hear requests for bail/bond reductions. The judge then gives the defendant the next court date, (usually within 2 – 4 weeks) which may differ from the date originally assigned by the magistrate and given to you. The judge also assigns conditions of release which may include "no contact" with the victim(s). The district attorney may request specific conditions that include your input. If the defendant can post bail, he/she is released from custody. If the defendant violates the release conditions after posting bail/bond, the bail/bond can be revoked so that the defendant is returned to custody until the date of the trial.

Probable Cause Hearing

Plea arrangements may be negotiated to dispose of lesser felonies during this hearing. For serious felonies that cannot be handled in district court, defendants can choose to waive probable cause by signing a form allowing the case to be sent to the grand jury without the need for a hearing. If they do not waive probable cause, the defense attorney may request a probable cause hearing.

At a probable cause hearing, the judge hears evidence in District Court to determine whether or not the crime was probably committed and whether or not the defendant probably committed it. The purpose of this hearing is to determine if there is enough evidence to forward the case to Superior Court. It is not to determine guilt or innocence.

Some counties in North Carolina do not hold probable cause hearings. The decision whether or not to hold a probable cause hearing depends on many factors and is often contingent on local policy. Check with the VA in your case about the probable cause hearing and whether or not your presence is needed.

Grand Jury Hearing

The grand jury is a panel of 12-18 citizens of the county. This is a closed meeting, not a hearing in a courtroom. The District Attorney decides whether or not to send a bill of indictment to the grand jury and also prepares the bill or bills of indictment to include the names of witnesses who will testify. Usually, the investigating officer is the only witness who testifies before the grand jury.

The grand jury hears evidence from the prosecution and investigating agencies to determine if there is sufficient evidence to believe that the defendant committed a crime. If there is sufficient evidence, a "true bill" of indictment is issued, and the case moves forward. If there is not sufficient evidence, the Grand Jury returns a "no true bill" and the case does not move forward.

Trial

The trial convenes in Superior Court before a presiding judge and a jury of 12 citizens. The jury will hear and evaluate testimony and evidence, and determine the guilt or innocence of the defendant. The jury verdict must be unanimous. If the verdict is not unanimous, there is a mistrial. In the case of a mistrial, the District Attorney has the option of re-trying the case before another jury. A jury trial could last one day or several weeks depending on many factors.

Sentencing Hearing

Upon a verdict of guilty, the defendant proceeds to the sentencing hearing. Except for capital murder cases, the judge determines the appropriate sentence by weighing mitigating and aggravating factors and applying this to standardized sentencing guidelines prescribed by the North Carolina General Assembly (called structured sentencing). In capital murder cases, the jury determines between a sentence of life without parole and a death sentence.

Restitution

Under North Carolina law, victims of violent crime have the right to receive restitution as ordered by the court. Therefore, victims should be prepared to present documentation of any economic loss associated with the criminal charges. Upon conviction, an offender may be ordered to pay restitution, and restitution is collected through the Clerk of Court Office. Reimbursable losses include out-of-pocket expenses like repair costs, medical bills, and stolen property.

If the offender is placed on supervised probation, the probation officer will monitor restitution payment. If the offender is placed on unsupervised probation, it is up to the victim to notify the court if the restitution is not being paid. If an offender is released from supervised or unsupervised probation and restitution has not been paid, the victim has the option to bring suit against the offender in civil court.

If the offender is imprisoned, the restitution may not be collected until the offender is released to post-release supervision, under the supervision of community corrections. If the offender is placed under the supervision of Community Corrections, the Division of Community Corrections monitors payment of restitution. If the offender is released from the supervision of Community Corrections at any time before restitution is paid, the victim has the option to bring suit against the offender in civil court.

Restitution does not always cover the full economic loss that the victim may experience. A civil lawsuit, which all crime victims have the right to file, may provide more complete compensation to the victim. A suit can be brought against the offender, the offender's parents (if the offender is a juvenile), and/or a third party whose negligence or indifference contributed to the results of the criminal act. It is recommended that you consult with an attorney before pursuing a civil lawsuit. Keep in mind that there are statutes of limitations on civil cases, which vary depending on the crime.



NOTE: Pursuant to state law, restitution that is unpaid can, in some cases, be docketed by the Clerk of Court as a civil judgment. At the time of judgement in criminal court, victims should ask the district attorney if it is possible to have restitution docketed as a civil judgement. If the district attorney can help in this way, it may increase the odds that restitution will be paid by the offender. There may also be grounds to file a civil action for losses not covered by restitution in criminal cases, such as pain and suffering. Victims may want to consult an attorney to determine what, if any, civil actions might be beneficial to them. For updated information, please see www.nc-van.org/additionalresources.

Important Considerations for Victims Attending Court

Safety in Court:

Some victims of violent crime (and their loved ones) fear for their safety when they attend the court proceedings and have to face defendants in the courtroom or in other parts of the courthouse. Many find it a relief to know that safety-planning can be conducted in advance of the court hearing. In some cases victim advocates can arrange for you to enter/exit from a separate door or be seated in a different room until needed for testimony. Bailiffs are sometimes able to escort a victim to and from parking areas and can help monitor the proximity of the defendant during the hearing. Judges and court personnel are sometimes asked to require a defendant to remain seated as the victim leaves in order to give the victim the opportunity to leave the property first.

Accommodations For Court Participants Who are Deaf, Cognitively or Physically Disabled, or Who Have Limited English Proficiency

State law requires that courts appoint a certified sign-language interpreter for criminal court proceedings involving a victim who is deaf. Accommodations must also be made for parties with cognitive or physical disabilities. Similarly, federal law calls for state courts to provide language interpreters for criminal court proceedings for parties with limited English proficiency.

It is helpful to let the court know of the need in advance to prevent delays or continuances. The victim advocate at the district attorney's office can act on a victim's behalf to make arrangements for all of the above through the clerk of court.

Language Access Guidance for Court Advocacy

If you are a victim of violent crime that needs additional support through the Court Process and face the extra barrier of having no or limited English proficiency (LEP), you have the right to request language access at no cost to you. North Carolina state courts only accept forms written in English, but are required to provide "meaningful access" to all persons, including those who cannot read or write English and are LEP. In other words, they must make an effort to ensure that language barriers do not exclude LEP persons from effective participation in its benefits and services. All clerks' offices have been equipped with the ability to use telephonic interpreting services to assist LEP individuals with court operations and inquiries at public information areas.

There are steps and guidelines that you, your advocate, and or lawyer can follow to help you and illiterate victims of crime complete forms and take full advantage of the court system.

Although the "preparation and filing of petitions" can be considered the "unauthorized practice of law" in North Carolina, this does not apply when a non-lawyer is solely acting as a "scribe." Acting as a scribe means that the person is simply writing down, verbatim, what you are telling them or re-writing the person's statement from their native language into English.

If you have an advocate that can be present, they can perform the duties of scribe and as scribe relieving the burden from the court system personnel. If you do not have an advocate present, clerks should be able to act as a scribe for LEP individuals, just as they may for an English speaker who is illiterate or blind. This would require utilization of the telephonic interpreting services.

Court interpreters are unable to function as a scribe. If a court interpreter is physically present to assist in interpreting, they are not permitted to fill out forms for LEP individuals. If you are literate in your native language, the facts of your case should be written out in your native language first and attached to the complaint that is being filed in English (scribed by an advocate or clerk). The statement would then need to be translated verbatim by an acting scribe to complete the English forms.

If you have an advocate who is functioning as a scribe they must only act as a scribe. They may not give you advice on how to complete any form or what you should write. Scribes are not permitted to “cleanup” the client’s statement by including stronger words, improved grammar, etc. The advocate should literally write exactly what the client wrote, even if it does not make sense, includes facts that the client might have been better off not including, or incorporates any other potential issues.

TIP: If you are an advocate that is performing scribe duties, you may wish to include a signed and dated statement which says: I, (insert name), an advocate with (insert Program name) assisted (insert client’s name), the Plaintiff, (at the request of the clerk’s office) by acting only as a scribe in that the Plaintiff does not read & write in English. I did not assist the client with what to say nor change the statement in any way. As a scribe I simply put the Plaintiff’s exact words into English to the best of my ability. (For LEP literate clients also add: If there is any question as to the Plaintiff’s statement, the Plaintiff has attached to this Complaint their statement in their native language so that a certified court interpreter can be called upon to translate it for the Court.)

For more information about language access in North Carolina State Courts, reference the Standards for Language Access Services: North Carolina Judicial Branch published by the North Carolina Administrative Office of the Courts



Title VI of the Civil Rights Act of 1964

Title VI prohibits recipients of federal funding, whether that funding is received directly or through state administrators, from discriminating against or otherwise excluding individuals on the basis of race, color, or national origin. The U.S. Supreme Court has interpreted this to require an organization that receives federal funding to take “reasonable” steps in ensuring “meaningful access” for LEP individuals. In other words, they must make an effort to ensure that language barriers do not exclude LEP persons from effective participation in its benefits and services. This requirement is not contingent on immigration status. Noncompliance with these requirements can result in loss of funding or legal action by the U.S. Department of Justice.

What is federal funding?

Federal funding can be interpreted to encompass any type of financial assistance from the federal government, including monetary gifts or grants, training, or use or donation of services, equipment, or other property. This funding can be given directly from federal agencies to an entity or can be funneled from the federal agency to an entity through a third party or state government.

If any part of the entity receives federal funding, the entirety of that organization must comply with Title VI.

What constitutes “reasonable” steps depends on four factors:

- 1) The number or proportion of LEP persons in the eligible service population
- 2) The frequency with which the LEP individuals come in contact with the program
- 3) The importance of the service provided by the program
- 4) The resources available to the program. This means that what is a

reasonable step for an organization with many resources may not be reasonable for an organization with very limited resources. However, low resources does not exempt entities from making strides to assist LEP people.

The Department of Justice (DOJ) policy guidance on Title VI says, “The steps that are reasonable for a recipient who serves one LEP person a year may be different than those expected from a recipient that serves several LEP persons each day. But even those who serve very few LEP persons on an infrequent basis should utilize this balancing analysis to determine whether reasonable steps are possible, and if so, have a plan of what to do if an LEP individual seeks service under the program... it may be as simple as being prepared to use one of the commercially available language lines to obtain immediate interpreter services.” Therefore, even if an agency only serves one LEP person per year, they must still have a plan in place for how to serve that one person in a meaningful way.

Translation of materials may or may not qualify as a required, reasonable step. The policy guidance from DOJ states: “In balancing the factors to determine what reasonable steps must be taken by recipients to provide meaningful access to each LEP individual, agencies should particularly address the appropriate mix of written and oral language assistance. Which documents must be translated, when oral translation is necessary, and whether such services must be immediately available will depend upon the balancing factors.”

Federal Implementation and Responsibility

Executive Order 13166: “Improving Access to Services for Persons with Limited English Proficiency” was signed into law by President Bill Clinton in August 2000. This Executive Order makes it mandatory for all federal agencies to review their available services, evaluate needs for service to LEP individuals, and create and institute a method for delivering these services in a manner that gives LEP individuals meaningful access. The Executive Order requires the creation of an LEP Language Access Implementation Plan to be assessed and adjusted continually.

Furthermore, the Order mandates that federal agencies oversee entities that received federal funding and that they comply with Title VI.¹

State and Local Law

While some states have “English-only” law, Title VI applies to the entire country, and even organizations in “English-only” states are required to comply. No state or local law can reduce these LEP protections, but they may increase protection within their jurisdictions.

Need help complying with Title VI?

Please contact Saira Estrada at saira@nc-van.org to learn more about language access.

Are you struggling with a non-compliant entity?

Complaints can be filed with the Office of Federal Coordination and Compliance within the U.S. Department of Justice’s Civil Rights Division. The Office will investigate the claim, finding compliance or non-compliance, and take appropriate legal action, if necessary. Non-compliant entities are given the chance to reach voluntary compliance; if they do not reach compliance status, the case can be referred for litigation or administration hearings for termination of federal funding.

You can find the complaint forms, in both English and Spanish, here:
<https://www.justice.gov/crt/filing-complaint>

¹ Casa de Eseperanza. “Ensuring Access to Services for Survivors with Limited English Proficiency (LEP)”.



Human Trafficking Information in NC

As defined by the Trafficking Victims Protection Act of 2000, human trafficking is:

a) The recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act in which the sex is induced by force, fraud, coercion, or in which the person induced to perform such an act has not attained 18 years of age;

b) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. (22 U.S.C. §7102)

Trafficking victims who are also immigrants may be eligible for T-Visas. For more information on eligibility/benefits of T-Visas, refer to the Immigration Remedies insert and consult an immigration attorney.

Many human trafficking perpetrators share common characteristics (please see power and control wheel on resource page 50). They may:

- Manipulate and exploit vulnerabilities, such as homelessness, poverty, domestic violence, substance abuse, mental or physical disability, and lack of legal immigration status
- Share the same national, ethnic, or cultural background as the victim. This allows traffickers to better understand and exploit the victim
- Promise a high-paying job, love, better life, etc.
- Isolate victims and create dependency
- Be a single person or a part of an extensive criminal network

Do you think you or someone you love may be a human trafficking victim? Some signs that a person is a human trafficking victim include:

- Working long and/or unusual hours
- Fear, anxiety, depression, tension, nerves, paranoia, and/or submission
- Fear or anxiety surrounding the topic or presence of law enforcement
- Avoidance of eye contact
- Extreme attachment to or of one person
- Signs of physical abuse – like bruises or cuts
- Unable or unpermitted to speak for themselves

Little personal property – perhaps indicated by wearing the same clothes every day
Not in control of their own ID documents
If you are or a loved one are victims you might have feelings of mistrust, fear, and/or embarrassment and may even want to opt to not use services but know that services offered to you are given free of charge and without any expectation. If you are afraid of your trafficker there are protections and safe houses available to you. The people available to support you can provide options and or referrals that align with your decisions.

- Some of the services may include:
- Short or long-term safe places to live
- Relocation
- Counseling services for treatment of trauma
- Health care
- Legal representation or advocacy
- Public benefits and/or economic empowerment assistance
- Job training/assistance obtaining employment

NOTE: This does not include a thorough discussion of sex trafficking.

For more information or guidance on the issue of sex trafficking, please contact the North Carolina Coalition Against Sexual Assault (NCCASA) at 919-871-1015 or www.nccasa.org

Labor Trafficking

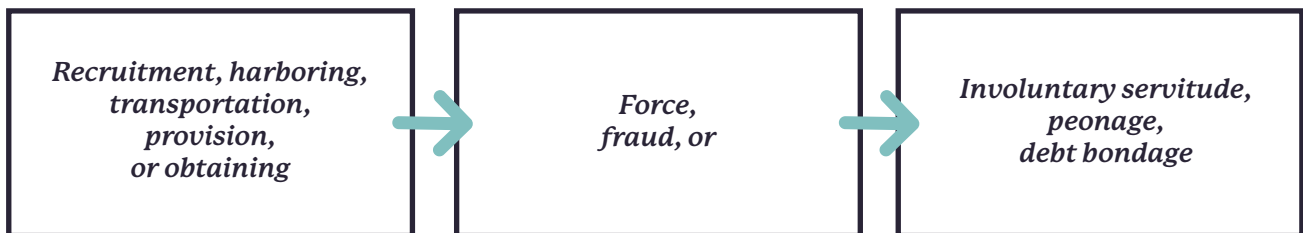
As defined has three components: Labor trafficking can occur in a variety of different industries – both legal and illegal – including: textiles, construction, agriculture, fishing, mining, utilities, domestic work, child and elder care, sex, and drugs. It can occur in the home, at a business, or at another location in which the trafficker still benefits from the work. Domestic violence cases intersect with labor trafficking when there are components of the processes, means, and ends listed above.

It is important not to confuse labor trafficking with (1) wage theft or (2) labor exploitation.

Wage theft occurs when someone is earning less than the federal or state minimum wage, is not receiving overtime pay that they are entitled to by law, or is not granted meal breaks. It may include retaliation from an employer if the victim confronts or complains about unjust/illegal work conditions.

Labor exploitation includes poor, unsafe, or exploitative working conditions, unfair wages (including lack of worker compensation and illegal pay deductions), presence of sexual, verbal, or physical harassment/violence, and workplace discrimination.

The main difference here is agency. Victims of wage theft and labor exploitation, have the ability/freedom to remove themselves from the situation and seek help, unlike human trafficking victims who would risk serious harm in doing so.



Assisting Labor Trafficking Victims

If you are unsure if you or a loved one is a victim of labor trafficking. You may ask yourself or them a variety of questions surrounding their social networks, origins, process that led them to their job, safety, and living conditions. Such as:

Safety Issues

- Have you been physically harmed in any way?
- Has anyone threatened to harm your family if you try to leave?
- Is anyone forcing you to do anything that you do not want to do?

Living Conditions

- Where do you sleep and eat?
- Have you ever been deprived of food, water, sleep or medical care?
- Are there locks on your doors and windows so you can't get out?

Social Networks

- Can you come and go as you please?
- Can you contact your family and friends (phone or write them) when you want to?
- Can you bring friends or significant others to your house?

Origins

- Did you come to the USA or this town for a specific job or purpose?
- When you got here, did you have to do work that was different from what you expected?
- Who made your travel arrangements and controlled your documents (passport, visa, identification, etc.)?

The goal is to not only help you escape from abusers but to assist in connecting you to resources and governmental benefits once independence is gained. If you would like to leave there are three major phases in assisting you:

1) Crisis Intervention: Connecting you to advocate for service provider, ensuring basic needs (food, housing, etc.) are met, safety planning, physical and mental health support. This phase occurs over a few weeks, starting from initial contact.

2) Transitional Support: Connecting you to legal representation (immigration or employment attorneys), finding community support, offering transportation, advocating for government benefits, establishing transitional housing (if applicable), and continuing to ensure basic needs. This phase can last for several months (half of a calendar year).

3) Long-Term Support: Helping you obtain work permit (if needed) and wage restitution as well as assisting with job searches and securing permanent housing. Vocational training or language classes may also be part of this phase. This phase takes place over the course of a 12 to 18 month period.

NOTE: This does not include a thorough discussion of labor trafficking. For more information or guidance on the issue of labor trafficking, please contact Project NO REST at 1-888-373-7888. Or:

1. *Futures Without Violence*. "Labor Trafficking and the Intersection with Domestic Violence and Sexual Assault." Department of Justice, Office on Violence Against Women: Website

2. *Futures Without Violence*. "Labor Trafficking and the Intersection with Domestic Violence and Sexual Assault." Department of Justice, Office on Violence Against Women: Webinar

General Courthouse Guidelines and Testifying Tips

The courtroom and court process can be confusing, emotionally draining, and overwhelming.

The District Attorney's office prosecuting your case can usually provide information specific to your circumstances. The following list is general information that may help you know what to expect and how to prepare. If you are testifying in the hearing, the District Attorney should help you prepare for court.

- Many crime victims find it helpful to have a trusted friend or family member accompany them to court hearings. It can also help to have someone prepared to be present and listen after court hearings.
- Some cases are tried before a jury and some are not. If your case is tried before a jury, the jury selection and verdict deliberation processes can be time-consuming and tedious. The district attorney's office can let you know what to expect.
- Generally speaking, the appropriate dress for the courtroom is business casual.
- It is best to have conversations only in private, rather than in hallways, restrooms, or other public spaces. If an ally of the defense or a juror overhears, it could jeopardize the case.
- Most district attorneys' offices provide space for private conversations and/or breaks. Check with the district attorney's staff for location and information.
- Because judges and jurors must remain objective, they are not allowed to speak with victims, witnesses, or offenders outside of court proceedings. Attempting to communicate with them in any way outside of court proceedings could jeopardize the case.

- The defendant will likely be in the courtroom.
- Some victims report that seeing the defendant in the courtroom, hearing the defendant's voice, observing the defendant's behavior and/or listening to testimony by or on behalf of the defendant can be upsetting.
- If you are the loved one of someone who was murdered, you may hear details of the crime for the first time in the courtroom. You may ask the district attorney to review the details of your loved one's death prior to the trial and to inform you when potentially upsetting testimony is expected.
- Taking care of yourself is important. At times it may be helpful to quietly leave the courtroom.
- If you have any questions or concerns during the trial, write them down and give them to the district attorney or the district attorney's staff.
- The district attorney may determine that a plea arrangement is the best chance to achieve a favorable outcome. It is appropriate to ask the district attorney to talk with you about any possible plea negotiations.
- The announcement of the verdict could be a highly emotional time for you and your family whatever the outcome.

Crime Victims and the Media

If the news media is covering your case, reporters may contact you for information or comments. Generally it is advisable to refrain from answering any questions or making any comments until after the trial is over. It may be helpful to seek guidance from the district attorney's office or the investigator handling your case.

Whether or not to talk to the media is a personal decision that warrants careful consideration and conversation with your loved ones. At no time does a victim/survivor have an obligation to talk to the media. If you choose to talk to the media, it is advisable to select someone within your support network to handle media inquiries. The news media can be a friend or foe to the crime victim/survivor.

In cases where there is a missing child or family member, the media can be a useful tool in helping to locate the missing person. Law enforcement may ask you to work with the media during this time of investigation and search.

Sometimes the news media has an interest in televising the Victim Impact Statement (VIS) at a sentencing hearing. This may help educate the public on the effects of the crime and sensitize them to the issue even if the Victim Impact Statement does not influence the judge in regard to sentencing the defendant.

On the other hand, insensitive, incomplete, or inaccurate reporting by the news media can further traumatize victims, their families and friends. Privacy can be a challenge. Graphic TV footage or photographs of crime scenes and injuries, aggressive and intrusive attempts to interview survivors and witnesses, can all contribute to further victimization of crime victims.

Because our system operates under a presumption of innocence and a defendant's right to a fair trial, statements by you as to the defendant's guilt may be used by defense attorneys to request a change of venue (location of trial) on the basis that the defendant may not be able to receive a fair trial in the jurisdiction where the crime occurred, due to pre-trial publicity.

If talking with reporters could jeopardize your case during judicial proceedings, you may refer them to the law enforcement agency or the District Attorney's office handling your case.

For more information on how to handle media inquiries contact your local law enforcement agency, the District Attorney's office, or NCVAN at (800) 348-5068 or (919) 831-2857.



Important information about Post-Conviction

Defendants who have been convicted of crime have the right to appeal. Cases from Superior Court are appealed to the North Carolina Supreme Court or the North Carolina Court of Appeals. Death penalty convictions are automatically appealed, and the survivors can expect the appellate process in death penalty cases to exceed 10+ years.

The North Carolina Attorney General's office will represent the state during the appellate process for death penalty cases, and the survivors have the right to be informed and present during the appellate process. Survivors can contact the North Carolina Attorney General's Office at (919) 716-6400.

Under structured sentencing, the judge may impose an active prison sentence by determining both a minimum and maximum prison term for felony convictions. Felons with active sentences must serve 100% of their minimum term and may serve up to their maximum term if they have infractions for misconduct while incarcerated.

Under structured sentencing, the judge may suspend a sentence and order the defendant to be placed on probation with very specific conditions. Probation is a way for the defendant to serve his/her sentence in the community. If the defendant fails to comply, the judge may activate his/her suspended sentence, which means that the defendant will serve time in jail or prison.

Defendants who are ordered to probation are under the authority of the North Carolina Division of Community Corrections. If you have questions about a defendant's probationary conditions, contact your local Community Corrections office.

Parole only applies to those offenders whose crimes were committed before October 1, 1994. This was when structured sentencing was adopted and the parole process was abolished.

Offenders whose crimes were committed after this date fall under structured sentencing, and must serve the minimum prison term to which they were sentenced.

The North Carolina Post-Release Supervision and Parole Commission is responsible for overseeing the release of offenders when they are either paroled under the old sentencing guidelines, or have served their minimum prison term under the new structured sentencing guidelines. Victims will be notified, if requested, of any consideration of release of an inmate. Victims can contact this office directly by calling (919) 733-7974.

Whether you have a question about the status of an inmate, conditions of probation, or an upcoming parole hearing, you can contact the North Carolina Department of Public Safety Office of Victim Services at (919) 733-7974 or (866) 719-0108 for more information.



Glossary of Legal Terms

Administrative Hearing: Hearings scheduled before a judge to track the progress of a case set for trial or plea.

Affidavit: A written, sworn statement in which the writer swears that the information is true.

Aggravating Factor: Factors that make a crime worse than similar crimes. They are defined by law and include: gang related activity, the targeting of elderly victims, especially cruel offenses, or the on-going failure to support dependent children.

Alleged: Said to be true, but not yet proven to be true; until the trial is over, the crime may be called an "alleged crime."

Appeal: A request by the defense or the prosecution that a higher court review the results of a decision on certain motions or in a completed trial. This can be an appeal from district court to superior court or from superior court to an appeals court.

Arraignment: The process where the defendant is brought to court, advised of the charges against him/her, and directed to plead. He/she may plead guilty, not guilty, or nolo contendere (no contest). If the defendant fails to plead, he/she is tried as if he/she pleaded not guilty.

Arrest Warrant: An order made on behalf of the State, based on a complaint and signed by a judge, authorizing law enforcement to arrest a person who is thought to have committed a crime.

Bail: An amount of money set by the court that allows a person charged with a crime to be released from custody. The purpose of bail is to ensure that the offender will be present at all court dates.

Bailiff: An officer or attendant of the court who is responsible for maintaining order during court session, custody of the jury, and custody of the prisoners present in court.

Bond: Bail monies paid by a bail bond company. The defendant secures a loan with collateral, such as a car or house. He also pays a set fee, usually 10% of the bail amount.

Calendar: A document listing cases scheduled for a court hearing on a specific date.

Composite: A picture of the assailant made from an artist's drawing or assembly of facial features.

Continuance: Sometimes court proceedings cannot take place as scheduled and the case is rescheduled for a later date. Such a postponement is called a continuance. A judge can grant or deny a continuance.

Corroborating Witness: A person who is able to give information that agrees with the victim or defendant's statement about the crime.

Cross-Examination: The questioning of a witness by an opposing party in a trial. For instance, the victim in a case is the State's witness, so the cross-examination is the defense attorney questioning that witness.

CRS: Initials indicating that a case is in superior criminal court. CR indicates a case in district court. Defense Attorney: The lawyer who represents the defendant in a legal proceeding.

Discovery: The complete case file from all law enforcement and prosecutorial agencies involved in the investigation of the offenses alleged to have been committed by the defendant. This may include pictures, audio recordings, statements, test results, letters, police reports, interviews, etc.

District Attorney: An elected official who represents the State of North Carolina and whose job is to prosecute the offender. The District Attorney may assign the case to an Assistant District Attorney (ADA) for prosecution.

District Court: Misdemeanor cases are tried in this court before a judge without a jury. If convicted, a defendant may appeal for a new trial in Superior Court before a jury.

Defendant: In criminal cases, a person who is charged with a crime. In civil cases, the person who is being sued.

Evidence: Testimony and exhibits that help to prove either the victim or defendant's statements.

Eye Witness: A person who witnessed the crime.

Failure to Appear (FTA): Defendant does not

appear for court and an order for his arrest may be issued.

Felony: A serious crime such as burglary or murder. Punishments for felonies range from fines and/ or imprisonment from one year up to the death penalty.

Grand Jury: Comprised of 12 to 18 citizens of the county. The Constitution requires that a person charged with a felony must be indicted by a grand jury. The grand jury hears evidence in a closed meeting with prosecutors, investigating agencies, and witnesses to decide if the defendant should go to trial in Superior Court.

Hung Jury: A jury whose members cannot unanimously agree that the defendant is guilty or not guilty.

Indictment: A formal written statement prepared by the District Attorney and issued by a grand jury charging a person with a crime.

Indigent Defendant: An accused person who has been found by the court to be incapable of paying for a private attorney.

Jury: Twelve county residents sworn to determine certain facts by listening to testimony in order to decide whether the accused is guilty or not.

Lineup: A group of five or six people who are viewed (in person or by pictures) by a victim or witness in an attempt to determine whether one of them is the person who committed the crime.

Magistrate: An officer of the district court whose jurisdiction is defined by the North Carolina General Assembly and includes accepting guilty pleas and entering judgment in certain misdemeanors as well as issuing search and arrest warrants, and setting bond.

Misdemeanor: Crime less serious than a felony. Punishment may be as much as two years in prison or a fine, or both.

Mistrial: A trial rendered invalid through an error in the proceedings such as when the jury cannot unanimously agree.

Mitigating Factor: A factor that makes a crime less deserving of punishment than similar crimes. They are defined by law and may include: a young defendant, a defendant who was honorably discharged from the armed forces, a defendant who supports his family, or a defendant who has a steady work history.

Mug Shots: Pictures of people made at the time they are arrested for a crime. Perjury: Deliberate, false testimony under oath.

Plea Agreement (Plea Bargain): An agreement made between the district attorney, the defendant, and the defense attorney in which the defendant agrees to plead guilty to a crime (usually a lesser crime than the original charge). The plea must be submitted to the court (judge) for approval.

Polygraph Exam: A test that uses a machine to measure changes in a person's heart rate, breathing rate, and blood pressure while questions are asked. The results are not admissible in court.

Probable Cause Hearing: A hearing before a district court judge to determine if a felony was committed; the evidence must be such that a reasonable person would believe that this specific crime was committed, and that it is probable that the person being accused committed that crime. If the judge decides there is probable cause, the case will be sent to the grand jury to consider whether or not to return an indictment. A defendant can choose to waive probable cause, in which the defendant signs a form and the case is sent to the grand jury.

Prosecutor: See District Attorney.

Public Defender: An attorney employed by a government agency to represent defendants who are unable to hire their own lawyer.

Restitution: Ordering a defendant to compensate the victim for losses suffered as a result of the crime.

Rule 24 Hearing: A hearing before a judge in first degree murder cases to determine if the State will seek the death penalty.

Subpoena: A court order directing a witness to be present in court to testify at the time and place stated. A subpoena may also include an order to produce documents or records. Failure to comply constitutes contempt of court and may result in a fine or imprisonment up to 30 days.

Superior Court: Felony cases are tried in criminal superior court before a jury, as are misdemeanor convictions appealed from District Court. Guilty pleas and plea bargains of felony cases may be handled in Superior Court.

Suspect: A person who is believed to have committed a crime.

Testimony: Statements made in court by a person who, before testifying, is required to take an oath to tell the truth.

Verdict: The decision by a jury in Superior Court, or by a judge in District Court, made at the end of a trial about whether the defendant is guilty or not. A jury verdict must be unanimous.

Victim Impact Statement: A statement, either written or oral, from the victim to be given to the sentencing judge. Information in an impact statement should include the emotional, physical, and financial impact of the crime. Families and friends of the victim may also submit a statement.



RESOURCES: General Contact Information

For information about services available in your community, please contact NCVAN at (919) 831-2857, (800) 348-5068, or visit www.nc-van.org to view our online resources.

Contact your local law enforcement agency for information about:

- Arrests
- Investigation
- Victim Advocacy
- Property Return
- Victims Compensation
- Pretrial Release
- Post-trial Release if Defendant is in Jail
- Reprieves, Commutations or Pardons

Contact your local Magistrate's office for information about:

- Arrest Warrants
- Protective and Restraining Orders
- Bail
- Small Claims Suits

Contact your local District Attorney's office at www.ncdistrictattorney.org/yourDA.html for information about:

- Trials and Hearings
- Victims' Rights
- Victim Impact Statements
- Disposition of the Case
- Victims' Compensation
- Prosecution
- Plea Negotiations
- Convictions and Sentencing
- Restitution
- Defendant's Right to Appeal

Contact the Clerk of Court's office nccourts.org/Courts/OCO/Clerk/Default.asp for information about:

- Court Dates and Times
- Restitution Collection
- Domestic Violence Protective Orders
- Condition of Sentence

Contact your local Guardian Ad Litem program for information about:

- Child Advocacy
- Court Accompaniment

Contact the Attorney General's Office at www.ncdoj.gov for information about:

- Appeals Process
- Death Penalty Cases
- Consumer Crimes

Contact the North Carolina Crime Victim Compensation Program at (919) 733-7974 or the website www.ncdps.gov/dps-services/victim-services/crime-victim-compensation for information about:

- Filing a Claim or Status of Claim
- Claim application form and deadline
- Types of compensation allowed

Contact the North Carolina Department Public Safety - Office of Victim Services (formerly North Carolina Division of Community Corrections and Probation & Parole) for information about:

- Nonpayment of Restitution or Restitution Modification
- Conditions for offender's Probation or Post-Release Supervision
- North Carolina SAVAN/VINE automatic offender notification
- Offender's Release from Custody
- Prison Assignment
- Work Release
- Community-Based Programs
- Victims' Compensation and other victim services
- Sex Offender Registry
- Harassment by a person from prison or who is on supervised probation or post-trial release
- North Carolina offenders' criminal histories & custody status

For offender information go to:

<http://webapps6.doc.state.nc.us/opi/offender-search.do?method=view> and <http://sexoffender.ncsbi.gov/>

RESOURCES: Helpful Websites and Other Contact Information

Contact the North Carolina Coalition Against Domestic Violence at www.nccadv.org or (919) 956-9124 to identify domestic violence services in your local community.

Contact the North Carolina Coalition Against Sexual Assault at www.nccasa.org or (919) 871-1015 to identify sexual assault services in your local community.

Contact the Child Advocacy Centers of North Carolina at www.cacnc.org/ or (336) 886-458 to identify child advocacy services in your local community.

Contact the 24-hour National Domestic Violence Hotline at www.thehotline.org/ or (800) 799-7233 and/or the National Sexual Assault Hotline at www.rainn.org/ or (800) 656-4673 to connect with your local program for information about confidential support such as:

- Shelter/Safe House
- Safety-Planning and/or Address Confidentiality - Emotional Support
- Protective Orders
- Court Advocacy
- Counseling and Support Groups
- Programs for Children

Contact the North Carolina Council for Women & Youth Involvement at <https://ncadmin.nc.gov/about-doa/divisions/council-for-women> or (919) 733-2455 for a list of court-sanctioned batterer intervention programs. These programs are facilitated behavioral change programs and can be attended voluntarily or by court order.

Contact your local county's Department of Social Services, or obtain your local information via the North Carolina Department of Health and Human Services: www.ncdhhs.gov/document/dss-county-directory or (800) 662-7030 for information about child abuse and neglect.

Contact the North Carolina Office of the Chief Medical Examiner at www.ocme.dhhs.nc.gov/docrequest.shtml (online document request) or (919) 743-9005 (family support) for county autopsy reports.

Contact your county Register of Deeds or obtain your local register's information and/or apply on-line via the North Carolina Vital Records: www.vitalrecords.nc.gov/order.htm or (919) 733-3000 for death certificates.

Contact your Local Mental Health Center or obtain the contact information to contact your local provider via www.ncdhhs.gov/providers/lme-mco-directory or (919) 733-7011 for information about:

- Free Counseling
- Support groups

Contact the North Carolina Department of Health and Human Services via <https://www.ncdhhs.gov/contact/hotlines> or call North Carolina United Way's 211 (dial 211) for: Lists of state and local hotlines.

Contact your district U.S. Attorney Office via www.justice.gov/usao/find-your-united-states-attorney or call (202) 514-2000 for information about prosecuting federal crimes

Contact the Department of Public Safety at www.ncdps.gov/DPS-Services/Victim-Services or (866) 719-0108 to include: see bottom of page 23.

Contact North Carolina Legal Aid at www.legalaidnc.org/get-help/Pages/Apply-Online.aspx or 1-866-219-LANC (5262) for information about:

- Free legal representation in obtaining protective orders related to domestic and sexual violence, and stalking, or associated emergency child custody orders

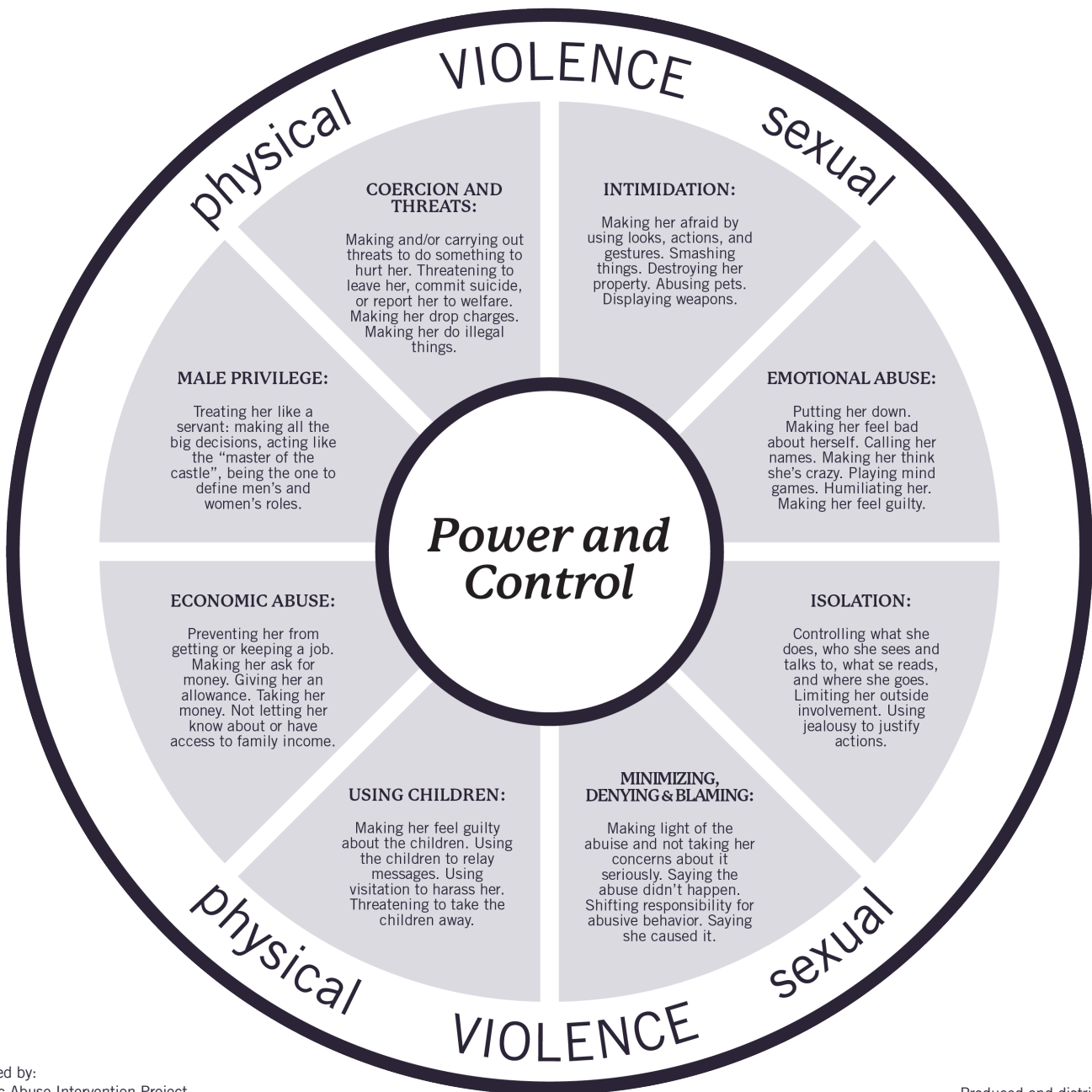
- Special visas for immigrant victims of violence and trafficking (U, T, VAWA self petitions)

- Free workshops on separation/divorce/child custody process (DV victims)
Contact a private attorney via [/www.ncbar.gov/for-the-public/finding-a-lawyer/](http://www.ncbar.gov/for-the-public/finding-a-lawyer/) or (919) 828-4620 for information about: legal services.

Power and Control Wheel:

Physical and sexual assaults, or threats to commit them, are the most apparent forms of domestic violence and are usually the actions that allow others to become aware of the problem. However, regular use of the other abusive behaviors by the batterer, when reinforced by one or more acts of physical violence, make up a larger system of abuse. Although physical assaults may occur only once or occasionally, they instill threat of future violent attacks and allow the abuser to take control of the woman's life and circumstances.

The Power & Control diagram is a particularly helpful tool in understanding the overall pattern of abusive and violent behaviors, which are used by a batterer to establish and maintain control over his partner. Very often, one or more violent incidents are accompanied by an array of these other types of abuse. They are less easily identified, yet firmly establish a pattern of intimidation and control in the relationship.



Developed by:
Domestic Abuse Intervention Project
202 East Superior Street
Duluth, MN 55802
218.722.4134

Produced and distributed by:
National Center on Domestic and Sexual Violence
Austin, Texas 78756
www.ncdsv.org

RESOURCES:

Reading Materials for Loved Ones of Homicide Victims

The following is a list of additional resources and reading materials that some victims have found helpful.

- Murder Survivors' Handbook by Connie Saindon
- Healing Your Holiday Grief by Alan D. Wolfelt., Ph.D
- Grieving Mindfully by Sameet K. Kumar, Ph.D
- What to do when the Police Leave: A Guide to the First Days of Traumatic Loss by Bill Jenkins
- Grief Therapy by Karen Katafiasz
- Coming Back: Rebuilding Lives After Crisis and Loss – Ann Kaiser Stearns, 1988, Random House
- In Pursuit of Justice – NC Department of Crime Control and Public Safety
- Murder, This Could Never Happen to Me – Jerry Harris, Ph.D., Jimmy Sprang, MSW, CSW, Karan Komsak, M. Division
- No Time for Goodbyes – Janice Harris Lord, 1987, Pathfinder
- Peace, Love and Healing – Bernie S. Siegal, M.D.
- President's Task Force on Victims of Crime, Final Report 1982
- Surviving Violent Crime – 13th Judicial Circuit Solicitor's Office, 1992, Jayne Crisp
- The Crime Victims Book – Morton Bard and Dawn Sangry
- Victims of Crime Information Handbook – Victim Assistance, Forsyth County Sheriff's Department, Linda Strugill

For more resources, please visit www.nc-van.org
or call (919) 831-2857 / (800) 348-5068.

Printed Edition 2/2023

RECORDING IMPORTANT INFORMATION

It is important to record certain data regarding the case, such as names, contact information and file numbers, where applicable. Below you will find a list of details that you may find helpful to record.

Date of Crime: _____

Defendant's Name: _____

Law Enforcement Officer at the Scene: _____

Detective(s): _____

Law Enforcement Agency's Victim Advocate: _____

Law Enforcement Case Number (OCA#): _____

Defendant's Arrest Date: _____

Charge(s): _____

Case Number: _____

Legal Assistant Assigned to Case: _____

Victim Advocate/DA's Office: _____

First Appearance Date: _____

Bond Amount: _____

Grand Jury Indictment Date: _____

Superior Court Arraignment Date: _____

Trial or Plea Date: _____

Sentencing Hearing Date: _____

NCVAN Contact Information: _____



www.nc-van.org | 919-831-2857 | info@nc-van.org