

# HONORING A VICTIM'S RIGHT TO INFORMATION ABOUT DEFENDANTS AND YOUTH OFFENDERS

(Or Const. Art I § 42(1)(b))

Oregon Department of Justice Crime Victim and Survivor Services Division

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Information about conviction, sentence, imprisonment, criminal  
history, and future release

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# **HONORING A VICTIM’S RIGHT TO INFORMATION ABOUT DEFENDANTS AND YOUTH OFFENDERS**

**Information about conviction, sentence, imprisonment, criminal history, and future release**

The justice system is best served by full implementation of all of crime victims’ rights as embodied in Oregon Constitution and statute. Therefore, it is in the best interest of all to create a comprehensive approach to ensuring that crime victims receive information consistently and effectively throughout the State of Oregon. This document discusses the constitutional and statutory mandates and best practices for providing victims with information about a defendant’s or youth offender’s conviction, sentence, imprisonment, criminal history and future release from physical custody.

## **What and How**

Ensuring that crime victims are afforded the informational rights provided by the constitution and statute is a key component to building trust in the criminal justice system. The right to information about the defendant is one of several informational rights afforded to victims of crime. This is a constitutional right and is subject to a claim of violation and request for remedy. The District Attorney’s Office will commonly be the public body responsible for providing victims with information about the defendant pursuant to the constitution and statute. With regard to imprisonment or release the jail or the department of corrections is likely to hold the most accurate information.

## **Select Express Provisions of Law**

### **Article I Section 42 (1) (b) grants crime victims:**

“The right, upon request, to obtain information about the conviction, sentence, imprisonment, criminal history and future release from physical custody of the criminal defendant or convicted criminal and equivalent information regarding the alleged youth offender or youth offender.”

### **ORS 147.421(3)(a)**

“Criminal history’ means a description of the prior arrests, convictions and sentences of the person.”

### **Article I Section 42 (5) (c)**

“Victim’ means any person determined by the prosecuting attorney or the court to have suffered direct financial, psychological or physical harm as a result of a crime and in the case of a victim who is a minor, the legal guardian of the minor.”

### **ORS 147.500 (1)**

“Authorized prosecuting attorney’ means a prosecuting attorney who, at the request of a victim, has agreed to assert and seek enforcement of a right granted to the victim by section 42 or 43, Article I of the Oregon Constitution.”

### **ORS 147.421 (1)**

“If a public body is the custodian of any of the following information, upon the request of the victim, the public body shall provide to the victim any of the following information of which it is the custodian and

that is about the defendant or convicted criminal: The conviction and sentence; criminal history; imprisonment and future release from physical custody.”

## Frequently Asked Questions

Below we highlight a few questions that arose during the writing of this paper.

- **What is criminal history?** The name and date of any charge of arrest, the disposition of any of those charges and the sentence imposed, if any, e.g. information contained in LEDS.
- **What about youth offender information?** The Oregon constitution says that victims are entitled to “equivalent information regarding alleged youth offender or youth offender”. This means information that is equivalent to adult criminal history per ORS 147.421. Again, the same information contained in LEDS e.g. an arrest, a filing of a juvenile court petition or/and a finding that the youth is in the jurisdiction of the court.
- **Why can I provide this information to victims?** The Oregon constitution provides that victims have a right to this information. Although some juvenile records are made confidential by some statutes, this is a constitutional right of victims and therefore prevails over any statutes addressing confidentiality of this particular information. As an aside, most of this information is already public record for adults.
- **Who gets this information?** Anyone that fits into the constitutional definition of victim may receive this information. This right attaches to all Oregon crimes and levels.

## Where do we go from Here?

Successfully crafting and incorporating a new process into current procedures takes time and resources to accomplish. This document offers guidance on best practice in asserting and enforcing victims’ rights. Included:

- suggested mode(s) of communication of information
- guidance on what is a juvenile equivalent for criminal history
- endorsement to use these solutions statewide

The guidance and sample documents supplied here will allow agencies to follow the law, respond with speed and consistency and minimize the potential for re-victimization and exposure to violating the rights of a crime victim. We encourage you to share this information with others who may benefit.

## Guidance and Flow Chart

**General Process** – The District Attorney’s Office will generally receive this rights request. Once received the District Attorney’s Office will gather the offenders arrest and conviction record, the disposition of any charges and the sentence imposed, if any, and schedule a time to convey the information to the crime victim. With regard to imprisonment or release the jail or the department of corrections is likely to hold the most accurate information and may receive a direct request.

**BEST PRACTICE – An advocate and/or Deputy District Attorney should provide the information verbally and within a reasonable timeframe.** (*Computerized criminal histories (CCH) are difficult to understand and even if translated into a summary document, victims will likely have questions. While victims may also request this information in writing, an in-person or phone meeting will help the victims understand the information.*)

**Prosecutors/Advocates** – Develop a practice for providing the information and consider the following:

- Outline the method and time frame for providing the information. e.g. verbally and within 30 days of the request.
- If all information is not available when the request is received, inform the victim when they might expect further information to become available and confirm that no renewal of the request is necessary, but that information will automatically be provided.
- Document requests for and efforts made to provide this information.
- Provide victim with information about VINE, BOPPPS (Board of Parole and Post-Prison Supervision), and local community corrections, what information they may possess and how to access it.
- The Board of Parole and Post-Prison Supervision (BOPPPS) will have the most updated information regarding release dates for currently incarcerated offenders. Connect victims with BOPPPS so they can obtain this information directly from this agency.
- Connect victim with VINE, local jail, and/or the community justice representative for the most accurate information related to additional information.

**Holding Facilities/Supervising Agencies** - DOC, the Parole Board, and/or Community Corrections are likely to hold the most accurate information related to imprisonment, such as the name and location of the correctional facility in which the person is confined. These agencies will also have the most accurate information about future release, to include the projected or scheduled date of release of the person from confinement, the name and location of the correctional facility from which the person is to be released and the community where the person is scheduled to reside upon release. Some information may not be available due to resentencing, appeal or confidentiality. Holding facilities/supervising agencies should expect contact from a District Attorney's Office regarding assistance on behalf of the crime victim and assign an appropriate point of contact to provide this information upon request.

**Juvenile Holding Facilities** – Oregon Youth Authority (OYA) has information about youth offenders being held in a youth correctional facility (YCF). Disposition/sentencing is indeterminate in juvenile court, so there is not a specific period of time youth must be held prior to release on parole. Victims can request to be notified prior to a youth's release from a YCF by contacting the OYA point of contact directly.

**Training** - In order to provide the best services to victims and to manage cases most effectively, it is incumbent upon agencies to ensure personnel are regularly and appropriately trained in crime victims' Rights

**If you think a victims' right has been violated** - Be sure to follow your office procedure, which should include referring the victim to a victim's rights lawyer or an agency, such as Oregon Crime Victims Law Center (OCVLC) for consultation and/or to the Oregon Department of Justice crime victims' rights enforcement page for further information.

# Victim requests right

Gather information

## Meet with victim

Provide the following information

Conviction  
&  
Sentence

Provide warm hand-off/instruction on how to obtain information about Imprisonment & Future Release  
name & location of correctional facility;  
projected date of release and community where person will reside upon release

Prior arrests

Victim is provided with information about defendant. as it becomes available. If relevant, this includes connecting the victim with the parole board for future release information.