



Victims' Rights Brief

For Arizona's Justice System Administrators, Practitioners and Advocates



February 2025

Ninth Circuit Restores Arizona's Victim Contact Law

Court Restores Protections for Crime Victims

This edition of the Victims' Rights Brief discusses the recent Ninth Circuit Court of Appeals ruling in *Arizona Attorneys for Criminal Justice v. Mayes* and explains how it impacts Arizona agencies, criminal justice practitioners, and crime victims. In January 2025, the Ninth Circuit reversed a lower federal court decision that had partially invalidated portions of Arizona's long-standing crime victims' rights law under A.R.S. § 13-4433. The result is a complete reinstatement of the statute, restoring the requirement that defense-initiated contact with crime victims occur only through the prosecutor's office.

This update is critical for all agencies and professionals who serve or interact with crime victims across Arizona. Below, we discuss the history of this litigation, the reasons behind the Ninth Circuit's ruling, and the practical steps that agencies should take to ensure ongoing compliance.

A.R.S. § 13-4433 Lawsuit Explained

Arizona has been at the forefront of ensuring constitutional and statutory rights for crime victims. In 1992, two years after Arizona voters amended the state constitution to include the Victims' Bill of Rights, the Legislature enacted A.R.S. § 13-4433 as part of a broader effort to implement and enforce victims' rights. A key provision of the statute is subsection (B), which states that all initial contact with a victim by the defense (including the defendant's attorney or any agent acting on behalf of the defendant) must be made through the prosecutor's office.

A.R.S. § 13-4433(B) stands alongside other statutory and constitutional provisions that reflect Arizona's commitment to victims' rights including the right to be heard at key proceedings, to receive notice of case events, and to confer with the prosecution.

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The Legal Challenge

In 2017, an organization known as Arizona Attorneys for Criminal Justice (AACJ) challenged the statute, claiming that the portion of A.R.S. § 13-4433(B) requiring all defense-initiated contact with victims to be routed through the prosecutor violated the First Amendment. Their argument primarily contended that the law amounted to an impermissible restriction on speech by preventing defense attorneys from speaking directly to victims about topics unrelated to formal investigative interviews.

In 2022, a federal district court agreed with AACJ in part, concluding that for non-interview-related communications, the law impermissibly burdened free speech. The court then issued a permanent injunction that prohibited Arizona authorities from enforcing the statutory requirement for non-interview contacts. While interviews specifically remained subject to Arizona Rule of Criminal Procedure 39 (which mirrors much of § 13-4433), the district court's injunction created a gray area for other defense inquiries directed at victims.



As a result, notification to victims and policies that had previously instructed the defense to go through the prosecutor for any victim contact were revised to account for the injunction. For a time, the modifications to policies and procedures created uncertainty, leaving some victims concerned about whether they would be contacted directly by defense counsel.

The Ninth Circuit Reversal

In January 2025, the Ninth Circuit reversed the district court's ruling, reinstating A.R.S. § 13-4433(B) in its entirety. The Ninth Circuit focused on the principle that a facial challenge must show the law is unconstitutional in all or a large portion of its applications. Because the primary application of § 13-4433 relates to interviews and investigative communications (matters that Arizona clearly has an interest in regulating to protect victims' rights), the Ninth Circuit held that the challengers had not met that high burden. Whether the requirement extends to "non-interview" conversations, the court stated, does not outweigh the law's legitimate applications and broader constitutional aims.

With the permanent injunction vacated, the statutory language that compels the defense to coordinate initial contact with victims through the prosecutor's office has returned to full effect.

Practical Guidance for Agencies

1. **Inform Staff & Partners:** Ensure that frontline staff know that the law has been reinstated in full. They should be able to advise victims that direct communication from the defense is, once again, prohibited absent victim consent after going through the prosecution.
2. **Revisit Letters & Forms:** If your office altered templates during the injunction (for instance, removing the requirement that defense counsel must always contact victims through the prosecutor), you should revert to or revise those templates so they accurately reflect the statute.
3. **Update Internal Policies:** Confirm that any internal guidance documents, training manuals, and policies and procedures clearly articulate that defense-initiated victim contact must route through the prosecution.
4. **Monitor Ongoing Developments:** Although the Ninth Circuit reinstated the statute, keep in mind that future challenges may still arise in specific contexts. Stay attentive to updates from the Arizona Attorney General's Office or from legal counsel regarding any further developments.
5. **Emphasize Victim Choice:** Remember that under Arizona law, a victim always has the right to refuse an interview entirely or to impose conditions. While the process for initiating contact must go through the prosecutor, it remains the victim's decision whether to talk with the defense, where any interview takes place, and how it is conducted.
6. **Consult Legal Counsel:** Work with your agency's legal advisor to ensure policies and practices comply with the reinstated statute and any related legal obligations.

Opinion:



<https://cdn.ca9.uscourts.gov/datastore/opinions/2025/01/23/22-16729.pdf>

If you have questions, suggestions, or an idea for an article, please contact Ryan Clark at (602) 542-8848 or by email at ryan.clark@azag.gov

Disclaimer: This newsletter provides general information for stakeholders in the Arizona criminal justice system. It does not constitute legal advice or an official opinion of the Office of the Attorney General.

National Crime Victims' Rights Week

Arizona Awards Ceremony Event

2025
NATIONAL CRIME VICTIMS' RIGHTS WEEK
ARIZONA AWARDS CEREMONY

Monday, April 7th, 2025
11:00 AM

PHOENIX COLLEGE
1202 W Thomas Rd, Phoenix, AZ 85013
At the Bulpitt Auditorium

For registration, visit the link below:
[National Crime Victims' Rights Week 2025 | Arizona Attorney General \(azag.gov\)](https://www.azag.gov/criminal/victim-services/event)

KINSHIP
CONNECTING & HEALING

FEATURING:
Troy Hillman

Cold Cases Matter® A distinguished veteran of the Phoenix Police Department, Troy Hillman's passion for cold case victims and relentless pursuit of justice led him to the department's elite cold case homicide team. There, he played a key role in solving hundreds of murders dating back to the 1970s, most notably the 2023 resolution of the Bryan Patrick Miller (AKA) Zombie Hunter/Phoenix canal murders case. Recipient of numerous honors and commendations, Troy will inspire us with his insights on building strong connections within the criminal justice system, emphasizing the importance of giving voice to victims and ensuring their rights throughout these complex and lengthy investigations.

 Please register for the event using the following link: <https://www.azag.gov/criminal/victim-services/event>

KINSHIP
CONNECTING & HEALING

NATIONAL CRIME VICTIMS' RIGHTS WEEK
APRIL 6-12, 2025

Victims' Rights Education

Participants are reminded of their training obligations within the Victims' Rights Education Program. It is mandatory to complete the Basic Victims' Rights course every 5 years. Additionally, systems-based practitioners should engage in the Advanced Victims' Rights course annually, with community-based practitioners encouraged to attend yearly as well. For more details, to request a training and to register for courses, please visit <https://www.azag.gov/criminal/victim-services/training>

Basic Victims Rights Training

March 19th, 2025
April 21st, 2025

Advanced Victims Rights Training

March 20th, 2025
April 22nd, 2025

Phoenix Victim Services Office:

Mainline: 602-542-4911

Fax: 602-542-8453

2005 N. Central Avenue, Phoenix, AZ,
85004



Tucson Victim Services Office:

Mainline: 520-628-6459

Fax: 520-628-6566

400 W Congress, S-315, Tucson, AZ,
85701

Victims' Rights Program (VRP): Email OVSVRP@azag.gov for questions or information related to the Arizona VRP Program.

Victims' Rights Compliance: Email VictimRights@azag.gov for questions or information related to Arizona Victims' Rights Compliance.

Training and Education: Reach out to OVSTraining@azag.gov for information about victims' rights education opportunities provided by the Arizona Attorney General's Office.

The Arizona Attorney General's Office is dedicated to a system of justice that is inclusive of crime victims and will remain vigilant in striving to provide the most efficient service to the people of Arizona. For more information and resources about the Arizona Attorney General's Office, please visit: azag.gov