Arizona Attorney General's Office of Victim Services

Victims' Rights Program

VICTIMS' RIGHTS PROGRAM GUIDELINES

I. PURPOSE

The Victims' Rights Program (VRP) was established to promote, improve, maintain, and enhance the ability for victims of crime to become an integral part of the criminal justice process. The VRP provides financial assistance to local and state entities affected by A.R.S. Title 13, Chapter 40 (Crime Victims' Rights) and A.R.S. Title 8, Chapter 3, Article 7 (Victims' Rights for Juvenile Offenses). The intent of the VRP is to encourage efficient and effective use of resources to meet statutory requirements and to promote statutory compliance aimed at ensuring victims' access to justice.

The goals of the Victims' Rights Program are to:

1. Improve the quality of justice through the adoption or modification of policies and procedures that provide for implementation of criminal and juvenile victims' rights laws.

2. Promote meaningful participation for victims in the criminal and juvenile justice processes by assuring that affected agency and court personnel achieve a factual and practical understanding of victims' rights provisions and their responsibilities.

3. Establish and maintain systems and procedures to provide for accurate and efficient victims' rights notification operations.

4. Stimulate efforts to economize the resources required for meeting statutory mandates through the use of technology.

5. Minimize the potential duplication of efforts and resources, by and between, those entities whose duties are mandated under both juvenile and criminal victims' rights statutes.

6. Encourage quality, coordination and uniformity in the development and use of forms and other materials that are given to victims as a means of communicating victims' lawful rights.

II. ELIGIBILITY

VRP funding may be awarded to government entities identified and charged in A.R.S. Title 13, Chapter 40 and A.R.S. Title 8, Chapter 3, Article 7, with providing services that ensure victims' access to justice and due process in the criminal and juvenile justice systems.

Law enforcement agencies with victims' rights responsibilities include all **municipal police** and **county sheriff departments**. As **custodial** agencies, **municipal jails, sheriff departments** and **juvenile detention centers** also have victims' rights duties by virtue of their authority over jail operations and facilities and jurisdiction to detain juveniles. The **prosecutorial** agencies that provide victims' rights services include all **City Prosecutor**, **County Attorney** and **Attorney General's Offices**. The Attorney General's Office also has victims' rights obligations when it represents the State in direct appeals. **Courts** having obligations under victims' rights laws include **Justice of the Peace** and **Municipal Courts**, as well as **County Superior Courts** and **Probation Departments**. **Juvenile Courts**' obligations under victims' rights laws are exercised primarily through their **Juvenile Probation Departments**. The **Department of Corrections**, **Department of Juvenile Corrections**, **Board of Executive Clemency**, and **Department of Health Services** are state agencies that have victims' rights duties related to a defendant's incarceration, treatment and release status.

III. PRIORITIES

- Notifying legal entities in accordance with § 13-4404 and § 8-385.

- Informing/notifying victims, upon initial contact, of community resources, rights information and request/waiver procedures, in accordance with § 13-4405(A)-(F) and § 8-386(A)-(F).

- Informing/notifying victims of arrests in connection with § 13-4405(A)(3)(f) and § 8-386(A)(3)(f).

- Informing/notifying victims of releases in connection with § 13-4405(A)(3)(g) and § 8-386(A)(3)(g).

- Informing victims of the date, time, and place of initial appearance(s) pursuant to § 13-4405(A)(3)(g) and § 13-4406.

- Informing victims of the right to receive a free copy of the police report at no charge pursuant to § 13-4405(A)(3)(i).

- Providing victims with a copy of terms and conditions of release pursuant to § 13-4407 and § 8-387.

- Notifying victims of the conditions of juveniles' acceptance into diversion programs, including restitution requirements, and of the right to be notified of the juveniles' completion or termination from diversion programs in accordance with § 8-388.

- After charging, notifying victims of their pre-conviction/pre-disposition rights, how a case is prosecuted, the charges filed against the accused, how to confer with the prosecutor, and who to contact for more information, pursuant to § 13-4408(A) and § 8-389(A).

- Notifying victims of the reasons for declining to proceed with prosecutions and notifying victims of the right to confer with the prosecutor prior to declination pursuant to § 13-4408(B) and § 8-389(B).

- Notifying victims of scheduled proceedings in accordance with § 13-4409(C) and § 8-390(D).

- Notifying victims of conviction, adjudication, acquittal, transfer to adult court, or dismissal of charges against defendant(s) pursuant to § 13-4410(A) and § 8-391(A).

- Prior to sentencing/disposition, if the defendant is convicted/adjudicated delinquent, notifying/informing victims of the following in accordance with § 13-4410(B)(C) and § 8-391(B)(C): the function of the presentence/predisposition report and the victim's right to view it, excluding excised portions; the victim's right to make a victim impact statement and what that statement may contain; the defendant's right to view the pre-sentence report; to be present and heard at any presentencing/predisposition or sentencing/disposition proceeding, to have a judgment entered for any unpaid restitution that is ordered, and the right to file a restitution lien; time, place and date of sentencing/disposition proceedings; and the name and telephone number of the probation department that is preparing the predisposition report.

- Notifying victims of sentence(s)/disposition(s) imposed on defendant(s) pursuant to § 13-4411(A) and § 8-392(A).

- Providing victims with a form to request notice of all post-conviction/post-adjudication review and appellate proceedings, post-conviction/post-adjudication release proceedings, probation/conditional liberty proceedings, and the decision(s) that arise out of those proceedings, pursuant to § 13-4411(B) and § 8-392(B).

- Notifying victims of post-conviction/post-adjudication or appellate proceedings and the decision(s) arising out of those proceedings in accordance with § 13-4411(D) and § 8-392(D).

- Notifying victims and the prosecutor's office of post-arrest releases and escapes of defendants, including those that may occur after defendants are detained or confined to secure care facilities, and notifying victims and the prosecutor's office of subsequent rearrests as applicable, in accordance with § 13-4412(A)(B) and § 8-393(A)(B).

- Notifying victims in matters relating to prisoner/delinquent status pursuant to § 13-4413(A)(B) and § 8-394(A)(B).

- Notifying victims of earliest release dates and actual releases of prisoners/delinquents, and in the event of prisoner/delinquent death, notifying victims of same in accordance with § 13-4413(A)(B) and § 8-394(A)(B).

- Notifying victims of post-conviction/post-adjudication release from confinement proceedings, the right to be present and heard at these proceedings, and the decisions reached in accordance with § 13-4414(B)(C) and § 8-395(A)(B)(C).

- Notifying victims of proceedings scheduled to consider revocation and/or termination of probation, intensive probation, or conditional liberty, proceedings to consider modifications to terms of probation, intensive probation, or conditional liberty and probation/conditional liberty violation arrests pursuant to § 13-4415(A)(B) and § 8-396(A)(B).

- Notifying victims of the release, discharge, or escape of persons who are placed by court order in mental health treatment agency(ies) when those persons are the accused, or have been convicted/ adjudicated delinquent for committing the offense against the victim, including notification of readmission, in accordance with § 13-4416(A)(B) and § 8-397(A)(B).

- Developing forms and maintaining a system for receipt of forms in accordance with § 13-4417(B)(C) and § 8-398(C).

- Providing copies of pre-sentence/pre-disposition reports to victims pursuant to § 13-4425 and § 8-404(C);

- Informing victims of defendant/defense counsel's request for interview(s) and the right to decline or set conditions on interviews in accordance with § 13-4433(A)(B) and § 8-412(A)(B).

- Informing defendant/defense counsel of time, place, and other conditions of victim-granted interview(s) in accordance with § 13-4433(D) and § 8-412(D).

- Informing victims of their right to leave work to attend court proceedings and/or to obtain or attempt to obtain an order of protection, an injunction against harassment or any other injunctive relief to help ensure the health, safety or welfare of the victim or the victim's child, pursuant to § 13-4439 and § 8-420.

- Informing victims of the right to confer with the prosecuting attorney about the disposition of a criminal or delinquent offense, including the victim's views about a decision not to proceed with prosecution, dismissal, plea or sentence/disposition negotiations and pre-trial/pre-adjudication diversion programs pursuant to § 13-4419 and § 8-399.

- Informing victims of the right to be present and heard at any proceeding where a negotiated plea will be presented to the court and for the court to not accept a plea agreement unless the prosecutor has advised the court that reasonable efforts were made to confer with the victim regarding the plea, that reasonable efforts were made to give the victim notice of the plea proceeding, and that victims' rights have been complied with and, if known, informs the court of the victim's position on the negotiated plea in accordance with §13-4423 and §8-403.

As defined by A.R.S. § 13-4401.18 and § 8-382.16, *victim* means a person against whom a criminal offense has been committed, including a minor, or if the person is killed or incapacitated, the person's spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or any other lawful representative of the person, except if the person or the person's spouse, parent, child, grandparent, sibling, other person related to the person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused. Legal entities and neighborhood associations are also entitled to limited rights in certain instances.

As defined by A.R.S. § 13-4401.6, *criminal offense* means conduct that gives a peace officer or a prosecutor probable cause to believe that a felony, a misdemeanor, a petty offense, or a violation of a local criminal ordinance has occurred. As defined by A.R.S. § 8-381, a *delinquent act* means an act committed by a juvenile that, if committed by an adult, would be a felony, a misdemeanor, a petty offense, or a violation of a local criminal ordinance.

Policies and Procedures

The development and implementation of policies and procedures by entities that receive VRP funding, provide guidance and ensures that victim service programs are carried out as statutorily mandated and in accordance with the VRP Funding Agreement. VRP funded agencies shall have policies and procedures for the provision of mandated victim services. The agency's policies and procedures will be reviewed during the VRP audit process to demonstrate compliance with victims' rights statutes and the VRP Funding Agreement.

IV. ALLOWABLE and NON-ALLOWABLE COSTS

Funds are awarded in the current fiscal year for the period of July 1 of the current calendar year through June 30 of the following calendar year.

- All costs and expenditures under the VRP are subject to these Guidelines. Where Guidelines are lacking, costs must be proven to be within the bounds of reason. The Attorney General reserves the right to final decision-making authority regarding cost allowances.

- VRP funds are to be used to supplement budgeted funds and not to supplant, or replace, state, local, and federal funds that would otherwise be available to provide services to victims of crime and delinquency. VRP funds may not have the effect of freeing funds from other sources (eg: general fund) for other purposes that, until the receipt of VRP funds, had been used to support the provision of mandated services to crime victims.

- The public official of the agency or court designated by *Crime Victims' Rights* and *Victims' Rights for Juvenile Offenses* statutes as responsible for the performance of duties pursuant to the legislation, and who is a recipient of a VRP award, shall have, as approved by the Attorney General, direct and sole authority for its expenditure within the public official's jurisdiction.

- Taking into consideration, materiality and the cost of additional processing compared to the benefits derived, and VRP monies remaining on June 30th in excess of $100.00 shall be returned to the Attorney General's. Any monies remaining less than $100.00 shall be carried forward and accounted for in the next fiscal year report by the recipient.

ALLOWABLE COSTS are those that can be proven necessary and essential for the direct provision or performance of those statutorily mandated victims' rights duties (services) identified in *Priorities per Section III of these Guidelines*. Allowable costs include:

- Personnel (Personal Services) costs calculated on the percentage of base salary for employee(s) involved in the provision of priority victims' rights services *as it correlates to the percentage of time spent performing priority service duties*. This includes participating in training related to mandated victims' rights as well as the supervision of volunteers who provide mandated services.

- Employee Related Benefit costs commensurate with salary percentage, such as FICA, health and accident insurance, life, accidental death and dismemberment insurance, disability insurance, unemployment compensation, workers' compensation, and retirement.

- Consulting (professional & outside/contractual services) costs such as computer systems' analysts and programmers, monthly fees for contracted automated victim notification services, professional printing services, and other personnel who may be hired on a contractual basis for the explicit purpose of providing resources necessary for accomplishing priority VRP services. Use of funds for consulting costs related to training is generally non-allowable.

- Operating costs include:
    - Postage and Delivery Services
    - Telephone (ATS Services, Line Costs, Station Equipment, Long-distance)
    - Photocopying
    - Printing
    - Equipment Contract Maintenance (if equipment is 100% chargeable to victim rights' usage)
    - Operating Supplies:
        - Data Processing
        - Envelopes, Stationery and Office Forms
        - Office Furniture (under $500)
        - Office Reproduction Supplies
        - Miscellaneous Operating Supplies
        - Miscellaneous Office Supplies
        - Data Processing Software

- Equipment costs such as personal computers and other capitalized furniture and equipment purchases (more than $500) which have a substantial impact of permanently enhancing priority victims' rights service compliance, and is utilized primarily for the provision of priority victims' rights service activities.
    - Generally, equipment costs are allowable for purchases that directly aid and benefit an agency or court's ability to meet mandated victims' rights notification requirements. Purchase and disposition of equipment, where approved, must be according to applicable governing authority guidelines.
    - The Attorney General's Office does not retain ownership interest in equipment acquired with VRP funds (or in the proceeds resulting from the sale of such equipment) as long as: (1) the equipment purchase was not in violation of the VRP Award Agreement; and (2) the useful life of the equipment in question has elapsed.

NON-ALLOWABLE COSTS (in addition to those noted above) are those that are non-essential to the direct provision or performance of priority victims' rights services. Non-allowable costs include:

- Personnel costs for: overtime pay, program administration or supervision of personnel (except for supervision of volunteers who provide mandated services) and prorated personnel costs for employees' time spent performing priority service duties that, were it not for a victims' rights mandate, would be performed anyway.

- Administrative costs that may only indirectly or tangentially support victims' rights activities. Such costs include, but are not limited to: training registration costs, advertising, depreciation, utilities, rent, books, dues, subscriptions, insurance (liability, risk management, property, etc.), mobile phones, equipment maintenance, travel, lodging, per diem, and capital outlays.

- Costs for equipment purchases that only indirectly aid, or have the ancillary effect of aiding victims' rights notification, while substantially aiding an agency's or court's business automation needs unrelated to mandated notification requirements.

- Professional Responsibility costs which are those that may be essential to the provision of priority victims' rights services but, were it not for a victim's rights mandate, the service duties would be performed anyway or are performed in consort or tandem with other professional duties to the extent that cost impact (in time and

resources) is negligible or indiscernible.

- Costs associated with the provision of victims' rights services that, while mandated, are not identified as VRP priorities. Such services include, but are not limited to: community referrals, crisis response/intervention, supportive counseling, court orientation, court accompaniments, transportation, employer/creditor intervention, child care, outreach, etc.

- Costs are also considered non-allowable if services or materials are otherwise available, alternative funding sources are available for such costs, or the Attorney General determines that such costs are unreasonable or otherwise non-allowable under these Guidelines.

  Example: Pro-rated personnel expenditures for law enforcement officers' time spent informing victims, pursuant to A.R.S. § 13-4405 or § 8-286, where the practice of informing victims entails giving a Victims' Rights Request/Waiver form in conjunction with performance of other professional duties, and to the extent that cost impact in time and resources expended in this victims' rights activity is negligible or indiscernible from the other professional duties being performed.

V. FUND AWARD APPROACH AND DISBURSEMENT

In accordance with the provisions under A.R.S. § 41-191.06 and § 41-191.08, the Attorney General's approach to the disbursement of VRP funds is as follows:

Program Participants

- All recipients of VRP funds are required to complete the annual Performance Review and meet all of the VRP reporting requirements to be considered for fund disbursement under the next VRP fund cycle.

- The level of funding projected to be available for award to program participants is 88% of the Victims' Rights Fund appropriation.

- If approved, each VRP participant is allocated a percentage of the total funds dispersed that is proportional to that participant's percentage of the total funds disbursed to all recipients in the previous fiscal year.

- Participants' most recent annual reports, audit reports and other materials that lend to an evaluation of performance will be reviewed. Participants' allocations may be adjusted or continued funding may be denied if the entity fails to effectively implement or comply with victims' rights mandates. Any such adjustments will have the effect of proportionally modifying the percentage share of funds subsequently awarded to all participants.

- If applicable, participants must provide a timely response to a Performance Review that may address VRP fund use, victim service levels, audit recommendations, plans for use of VRP monies in the upcoming fiscal year, and any other issues or concerns identified by the Attorney General.

First Year Participants

In order to be eligible for the following fiscal year funding, agencies and courts that received funding for the first time in the current fiscal year, may be required to provide supplementary information in addition to the regular Performance Review that addresses the following:

- Responses to inquiries regarding victim service level and use of VRP funds.

- A detailed proposal for use of VRP funds.

- An explanation of how continued participation in the VRP will serve to facilitate compliance, enhance services, or increase the provision of victims' rights services.

- Any other issues or concerns identified by the Attorney General's Office.

New Program Applicants

New program applicants are agencies or courts that are eligible to receive victims' rights funding pursuant to the specifications in *Section II of these Guidelines* but are not current-year recipients of VRP funds.

Program applicants that submit new applications per the forms and instructions issued by the Attorney General may be awarded funds according to the following approach:

- The agency or court is mandated to perform certain duties pursuant to applicable sections of victims' rights statutes that, when implemented, imply a monetary impact.

- The agency or court has completed, signed and returned an application, including a list of warranties in accordance with guidelines and instructions set forth by the Attorney General's Office.

- Sufficient documentation and information are provided in the funding application for reviewers to determine:
  - The extent to which an applicant is statutorily and financially affected by victims' rights laws.
  - The applicant's plan for the use of requested monies, if applicable, and the costs associated with plan activities.
  - Other funding and resources available to the applicant for the award period for which VRP funding is requested.

Evaluation of New Program Applications

Review of applications will encompass procedures to assess financial impact and need of entity, each entity's level of performance in implementing victims' rights statutes, and an evaluation of funding requests in relationship to applicant's plans for the efficient and effective use of funds to meet statutory obligations. The approach for evaluation is as follows:

- Applications will be reviewed to assess applicant eligibility and compliance with Guidelines and instructions for reporting performance and cost data.

- The number of victims' rights services reported and the financial impact of those services will be reviewed and evaluated. Performance and cost data will be compared with data reported by like entities in previous funding award cycles.

- Each applicant's funding request in relationship to total funds available for award.

- Each applicant's evidence of the necessity of funding for developing additional activities that would increase the efficient or effective provision of crime victims' rights services.

- The reasonableness of each applicant's funding and budget requests in light of actual costs, projected costs, and financial support anticipated from other sources.

- The cost-effectiveness of the delivery of mandated services by each applicant.

- The accuracy and thoroughness of completed application.

NOTE: NEW APPLICATIONS ONLY SOLICITED WHEN FUNDS ARE AVAILABLE.

VI. FUND AWARD PROCESS

1. The Attorney General notifies participants and applicants of funding awards.

2. The Attorney General solicits budget information.

3. Recipients complete and return budget proposals to the Attorney General.

4. Attorney General reviews budget proposals, ensuring that budgeted expenditures are reasonable and in

compliance with VRP Guidelines, and issues funding agreements.

5. Recipients secure approval of VRP funding agreements from governing authority (City Council, Board of Supervisors, etc.), and return executed documents to the Attorney General.

6. The Attorney General issues award checks to recipients from whom signed agreements have been received. Award checks can be disbursed at one time or in semi-annually, quarterly or monthly intervals.

VII. BUDGET MODIFICATION REQUESTS

Budget modification requests can be submitted at any time during the funding award period. However, requests must occur prior to the end of the fiscal year and should be done as soon as possible as approval is not guaranteed.

- If a budget modification request is for less than 10% of the total VRP award amount, and will be used among existing budget categories, a formal written request form is not necessary. However, to receive approval, the Attorney General's Office must be notified in writing of the proposed modification. All programs are limited to three modifications, of this type, per award period.

- If a budget modification request is for more than 10% of the total VRP award amount, involves a new budget category, or is in excess of the limit of three requests per award period, the Attorney General's Office must be contacted and a Budget Modification Form must be requested. The requesting agency must return the completed form to the Attorney General's Office for consideration. The agency will then be notified of whether or not the modification request will be approved.

VIII. REPORTING REQUIREMENTS

Pursuant to A.R.S. § 41-191.08(F), entities that receive victims' rights funding are required to complete and submit an annual report to the Attorney General documenting the expenditure of VRP funds and the level of service achieved in the funding year. The annual report must disclose any interest earned on VRP funds by the recipient during the fiscal year. Interest earned during the fiscal year must be applied to that year's VRP eligible expenses or be returned to the Attorney General.

The Annual Report for the most recently completed fiscal year must be received by the Attorney General on or before the second Friday in August (reports must be post-marked on or before this date).

The VRP Funding Agreements stipulate a financial impact penalty relative to subsequent fiscal year funding for failure to submit the annual report by the specified due date. The Attorney General may reduce VRP funding to a late-reporting agency or court in the next fiscal year according to the schedule below:

# Business Days Late	1 - 5 days	6 - 10 days	11 - 15 days	16+ days
% Reduction next FY	5%	10%	15%	25%