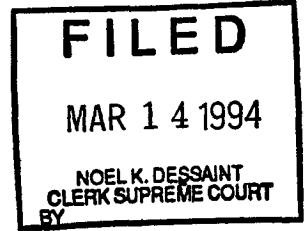


IN THE SUPREME COURT OF THE STATE OF ARIZONA



IN THE MATTER OF: ADMINISTRATIVE )  
REQUIREMENTS FOR VICTIMS' RIGHTS )  
IMPLEMENTATION PROCEDURES FOR USE )  
BY THE SUPERIOR COURT, JUSTICE )  
COURTS AND MUNICIPAL COURTS )  
\_\_\_\_\_ )

ADMINISTRATIVE  
ORDER NO. 94-16

A. Pursuant to Article 6 of the Arizona Constitution and pursuant to A.R.S. §13-4401 et seq., as amended by Laws 1991, Chapter 229, and Laws 1993, Chapter 243, it is ordered that the following administrative requirements are issued to govern the procedures for administration of Victims' Rights Implementation Procedures for use by the superior courts and municipal courts. This order supersedes Administrative Order 91-35.

**1. Prompt Restitution**

Monies received from the defendant each month for each case shall be applied first to satisfy any ordered periodic restitution payment and any restitution payments in arrears in that case. Any remaining balance paid each month for each case may be applied to satisfy penalty assessments, fees and fines in that case. If the order does not indicate a specific periodic restitution payment, the entire amount of any payment received for each case shall be applied to satisfy the restitution obligation until that obligation is paid in full.

All monies collected for restitution payments shall be processed by the court within fifteen days unless the amount of any single disbursement is less than \$10. In those instances where a single disbursement is less than \$10, restitution may be held by the court until a minimum of \$10 is collected, but in no event, beyond 90 days following receipt of payment.

A probation office or the assigned agent or agency monitoring payment, upon finding that the defendant has become in arrears in an amount totaling two full court-ordered monthly payments of restitution, shall notify the supervising court. This notification may consist of either a petition to modify, a petition to revoke or a memorandum to the court outlining the reasons for the delinquencies and expected duration thereof. A copy of the memorandum shall be provided to the victim if the victim has requested notice of restitution modifications.

Each court in conjunction with the probation office or other agency monitoring payments shall develop a system by which the court will receive timely notice of delinquencies in restitution payments.

**3. Notice to Prosecutor**

Criminal proceedings, for criminal offenses as defined by A.R.S. §13-4401 and initiated by a prosecutor by information, complaint or indictment, with the exception of initial appearances and arraignments shall be scheduled at least five days in advance of the date of the proceeding unless it is unreasonable to do so and the court states the basis of this determination on the record.

Notice to the prosecutor may be by any written document, telephonic transmission followed up with a written confirmation, facsimile transmission, or any other electronically transmitted message or document containing the following minimum information: the transmittal date; case number; defendant's name; type of hearing; and the date, time and place of next hearing. The court may agree to provide additional information. If notice is initially given by telephonic transmission, the name of the person receiving notice shall be recorded and noted on the confirming written notice.

**4. Change of Plea/Victim Statements**

The changing of plea minute entry shall state whether the victim was given the opportunity to address the court and whether any statements submitted by the victim have been reviewed by the court prior to accepting the plea.

**5. Sentencing/Victim Statements**

The sentencing minute entry shall state whether the victim was given the opportunity to address the court and whether any statements submitted by the victim have been reviewed by the court prior to sentencing.

**6. Victim's Statements**

Victim statements may be submitted in writing, orally, or on audiotape or videotape where legally permissible and in the discretion of the court.

**7. Receipt of Victim's Statements**

Court agencies shall make reasonable efforts to forward victim requests and victim statements to the appropriate court or agency.

**8. Inspection of Presentence Report**

Each court in conjunction with the prosecutor shall develop a plan and procedures to comply with A.R.S. §13-4425 (i.e., to allow the victim to inspect the presentence report, if the presentence report is available to the defendant).

**9. Criminal History Information - Presentence Reports**

All criminal history information obtained during the presentence investigation will be handled as a addendum to the presentence report and distributed only to the court, the prosecutor, the defense and other authorized criminal justice agencies. Such information will not be made available for review to the victim. The copy provided to the victim by the prosecutor will not include this addendum.

The court upon filing this document will maintain this information as confidential. The public record will **not** include this addendum. The clerk's office will maintain a filing system which will insure that none of the confidential criminal history information will become part of the public record and that it will be made available only to authorized criminal justice agencies.

**10. Victim Notice Regarding Probation Modifications, Revocation Dispositions and Terminations, and Discharges**

The court shall provide to those victims who have requested notice of 1) probation or intensive probation revocation disposition proceedings; 2) any request to the Court to terminate probation or intensive probation; or 3) any request to the Court to modify the conditions of probation or intensive probation that affect restitution or incarceration status or that substantially affect the probationer's contact with the victim or the victim's safety. The court shall provide victims who appear at probation hearings an opportunity to be heard. If the victim does not appear, the court may proceed with the matter.

Each court in conjunction with the probation office or other agency providing notice shall develop a system by which victims who have requested notice receive the requested notice in a timely fashion.

**11. Minimize Contact Between Victim and Defendant**

The court shall work closely with law enforcement officials, prosecutors, and defense attorneys to assist with separation of defendant(s) and defendant's family and victims and victim's family or representative. Before any court proceedings, the court and court staff shall, to the extent possible, maintain separate waiting areas for the victims and victim's family or representative and the defendant(s) and

defendant's family. Court personnel shall not show particular deference to any of the parties.

When new court facilities are constructed or renovated, provisions shall be made for separation of the victim and victim's family from the defendant and the defendant's family.

Each court shall develop a plan to minimize contact between the victims and victim's family or representative and defendant(s) and defendant's family.

**12. Victim's Right to Privacy**

A victim shall not be compelled to testify regarding the victim's addresses, telephone numbers, place of employment or other locating information absent an order by the court to reveal such information based upon a finding of a compelling need for the information.

DATED this 14<sup>th</sup> day of March, 1994.

ARIZONA SUPREME COURT *∩*

STANLEY G. FELDMAN, CHIEF JUSTICE

AS640.2 (03/11/94) JP