

VICTIMS' RIGHTS BRIEF

For Arizona's Criminal and Juvenile Justice Administrators, Practitioners, and Advocates
Published by the Arizona Attorney General's Office of Victim Services

Privileged Communication -- "Uniquely Arizona"

Recent national publications have drawn attention to the unique aspect of Arizona's victims' rights laws that relate to **privileged communication** between a crime victim and his or her advocate. Most states apply privilege solely to victims of sexual assault or domestic violence and their counselors at rape crisis centers and shelters; a few have extended privilege to victims of violent crime or crimes against children. Arizona is distinctly different...

"ONLY ARIZONA HAS GONE BEYOND THESE EXAMPLES BY MAKING A CONSULTATION BETWEEN A VICTIM ADVOCATE AND THE VICTIM OF ANY CRIME A PRIVILEGED COMMUNICATION . . ."

Dan Petersen Ph.D. and , Richard Martin, J.D.
"Legally Speaking: Privileged Communication and Victim Advocacy"
MADVOCATE, Winter, 1999, page 21

"ONE STATE THAT RECOGNIZES . . . PRIVILEGE [FOR SYSTEM-BASED SERVICE PROVIDERS] IS ARIZONA. THE ARIZONA STATUTE DOES NOT ALLOW SYSTEM-BASED SERVICE PROVIDERS TO DISCLOSE PRIVILEGED INFORMATION WITHOUT WRITTEN CONSENT OF THE VICTIM . . ."

Linda Seabrook
"Issues from the Field: System-Based Victim Service Programs and Confidential Communications"
National Center for Victims of Crime - *NETWORKS*, December, 1998, p. 6

C O N F I D E N T I A L

Sharing of personal information may be the most meaningful facet of the victim/advocate relationship. Trust and openness are fundamental to the advocate's role in protecting victims, but could that protection be built if the communications between advocates and victims were not privileged from forced disclosure in a court setting? Unfortunately for most victims of crime elsewhere, maybe not. But in Arizona, privileged communication is the lawful guarantee to confidentiality between two parties, in what is often one of the least-noticed, but most ardent alliances in the courtroom -- the victim and his or her advocate. **Generally speaking, and with some exceptions (see the box insert to the right), privileged communication means that victims are entitled by state statutes to have communications with their system or community-based advocates (see the definition of advocate in the box insert below) not disclosed without their consent.** By law, communication includes records, notes, documents, correspondence, reports, or memoranda that contain opinions, theories, or other information made in the course of advising, counseling or assisting victims. Here are a couple of pointers:

- Make it standard procedure (if it is not already) to explain office or program policy on shared communications, and the exceptions to privilege, in all initial contacts between service providers and victims.
- Remind victims of the value and importance of directing offense-related information (conversation) to the prosecutor, and explain that in "exchange" for entitlement to privilege, involvement in the legal elements of the case prosecution is limited. ♦

NOTABLE EXCEPTIONS TO CONFIDENTIALITY PROVISIONS OF A.R.S. § 13-4430 / § 8-409

- ☛ disclosure of compensation or restitution information;
- ☛ disclosure of knowledge that the victim will or has given perjured testimony;
- ☛ disclosure of communication that is, or contains, exculpatory (discoverable) material

DEFINITION OF CRIME VICTIM ADVOCATE per A.R.S. § 13-4401 / § 8-382:

A person who is employed or authorized by a public entity or a private entity that receives public funding primarily to provide counseling, treatment, or other supportive assistance to crime victims.

**MARK YOUR
CALENDAR NOW!**

**The eleventh annual
Arizona Coalition for
Victim Services
(formerly Arizonans
Together) conference
will be held
Thursday, June 3,
1999 and Friday,
June 4, 1999 in Mesa.**

**Whether you are new
to the field of justice
administration or a
seasoned veteran,
you will benefit from
the informative
training seminars
and keynote
speakers.**

**For more
information, contact:
Connie Chapman
ACVS Conference
Committee Chair
(602) 261-8192**

Victims' Rights Week: April 25 - May 1, 1999

April 25 - May 1, 1999 has been designated by the U.S. Department of Justice's Office for Victims of Crime as "Victims' Rights Week." The theme of this year's recognition is *Victim Voices: Silent No More*. All cities and towns in Arizona are requested to issue proclamations recognizing Victims' Rights Week, and justice practitioners throughout Arizona are encouraged to undertake activities in observance of the week.

To assist with such activities, the National Center for Victims of Crime has once again prepared a comprehensive *Strategies for Action* kit, a resource guide that includes crime statistics, camera-ready artwork, posters, suggested activities, and many releases, speech bites, proclamations. These from County Victim of Crime at (703) 276-site at www.ncvc.org.



The chair of the Committee of the Victim Services, Carol communities across observance of "This is an important "for crime victims and those who serve them in Arizona to educate our citizens about violence and victimization and encourage their support for victims' rights and services . . . " ♦

sample letters, press poignant quotations and materials can be accessed Witness programs or by National Center for Victims 2880, or visiting their web

Victims' Rights Week Arizona Coalition for Mitchell, encourages Arizona to join in the Victims' Rights Week opportunity," says Carol,

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OF VICTIM SERVICES
1275 West Washington
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