

CONFIDENTIAL ADVISORS UNDER TITLE IX



Office of Attorney General Jeff Landry
Louisiana Department of Justice

DEFINITION

An individual to whom victims of power-based violence can report anonymously or directly without the person being obligated to report the crime to the University or law enforcement

**** Victims must be 18 years of age or older**



AM I A RESPONSIBLE EMPLOYEE?

Am I a "Responsible Employee"

"Responsible Employee" is a Title IX term that indicates an employee who has the obligation to notify the Title IX Coordinator if they learn that a current student may have experienced sexual misconduct.

Faculty / TA's

Residential Life/Greek Life

Administrators

Academic Advisors

Coaches

Am I a "Confidential Resource"

Most employees who are not designated as "Confidential Resources" are considered Responsible Employees. You have no obligation to inform Title IX if you learn about an incident of sexual misconduct.

Counseling

Health Center

Women's Center Staff

Chaplains



RESPONSIBILITIES

The confidential advisor shall inform the victim of the following :

- Their rights under federal and state law, as well as institutional policies
- Their right to report to local law enforcement and any other reporting options
 - Outlining the fact that once reported a portion of the decision making may be out of their hands
- The process of investigation and disciplinary proceeding within the institution



RESPONSIBILITIES

- The process of investigation and adjudication of the criminal justice system
 - Outlining the criminal justice process
- Potential accommodations that the institution may provide
 - Such as changing dorms/class schedules and/or other institution related issues
- The name and location of the nearest medical facility to have a sexual assault forensic kit administered by a trained Sexual Assault Nurse Examiner
 - Information on transportation to and from the exam
 - Available reimbursement for a visit



IMPORTANT ALERT

Always inform victims regarding the limited jurisdiction, scope, and available sanction of the institution

The disciplinary proceeding should not be considered a substitute for the criminal justice process



DUTIES OF A CONFIDENTIAL ADVISOR

The confidential advisor, with written approval of the victim, **MAY** :

- ◉ Serve as a liaison between a victim and the institution/law enforcement



DUTIES OF A CONFIDENTIAL ADVISOR

The confidential advisor **SHALL** be authorized to:

- ⦿ Liaise with institutional staff to arrange reasonable accommodations
- ⦿ Accompany the victim (when requested) to interviews and other proceedings



DUTIES OF A CONFIDENTIAL ADVISOR

The confidential advisor **SHALL** be authorized to:

- ◉ Advise the victim of their rights and the institution's responsibilities
- ◉ Provide information on things such as protective orders, restraining orders and other orders issued by the court or by the institution



DUTIES OF A CONFIDENTIAL ADVISOR

- ⦿ The confidential advisor **SHALL NOT** be obligated to report crimes to the institution or law enforcement so that it reveals the identify of the victim or the accused
- ⦿ Any request for accommodation by the confidential advisor **SHALL NOT** trigger an investigation by the institution



RESOURCES

- ◉ **Counseling & Healing Activities**
- ◉ **Case Management**
- ◉ **Advocacy**
- ◉ **Legal**
- ◉ **24-hour Hotline**
- ◉ **Community Education & Outreach**



LAW ENFORCEMENT

- ⦿ Adult survivors DO NOT need to report to police
- ⦿ DO NOT make a report on a student's behalf without their involvement and consent
- ⦿ A report to Campus PD \neq report to local PD
- ⦿ Survivors have a right to an advocate when they report
- ⦿ Investigation time varies widely and can be lengthy
- ⦿ Many times an arrest is never made, this does not mean crime didn't happen



RIGHTS OF THE VICTIM UNDER FEDERAL LAW

- ◉ **The Crime Victims' Rights Act - 18 U.S.C.A §3771**

- ◉ Under the CVRA, a crime victim is a person who has been directly and proximately harmed (physically, emotionally, or financially) as a result of the commission of a federal offense or an offense in the District of Columbia.
 - (a) Rights of crime victims.--A crime victim has the following rights:
 - (1) The right to be reasonably protected from the accused.
 - (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
 - (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
 - (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
 - (5) The reasonable right to confer with the attorney for the Government in the case.
 - (6) The right to full and timely restitution as provided in law.
 - (7) The right to proceedings free from unreasonable delay.
 - (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.
 - (9) The right to be informed in a timely manner of any plea bargain or deferred prosecution agreement.
 - (10) The right to be informed of the rights under this section and the services described in section 503(c) of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10607(c)) and provided contact information for the Office of the Victims' Rights Ombudsman of the Department of Justice.



RIGHTS OF THE VICTIM UNDER FEDERAL LAW

The Victims' Rights and Restitution Act - 34 U.S.C.A §20141 formerly cited as 42 U.S.C.A §10607

Under the Victims' Rights and Restitution Act (VRRRA), a crime victim is a person who has suffered direct physical, emotional, or pecuniary (financial) harm as a result of the commission of a crime.

- Under the VRRRA, some of the services victims are entitled to include:
 - To be informed of the place where they may receive medical and social services
 - To be informed of public and private programs available for counseling, treatment, and other support services
 - To receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender
 - To know the status of the investigation of the crime, to the extent it is appropriate and will not interfere with the investigation
 - To have personal property being held for evidentiary purposes maintained in good condition and returned as soon as it is no longer needed for evidentiary purposes



RIGHTS OF THE VICTIM UNDER STATE LAW

Louisiana Constitution Article I, § 25 - Declaration of Rights

- “Any person who is a victim of crime shall be treated with fairness, dignity, and respect, and shall be informed of the rights accorded under this Section. As defined by law, a victim of crime shall have:
 - the right to reasonable notice and to be present and heard during all critical stages of pre-conviction and post-conviction proceedings;
 - the right to be informed upon the release from custody or the escape of the accused or the offender;
 - the right to confer with the prosecution prior to final disposition of the case;
 - the right to refuse to be interviewed by the accused or a representative of the accused; the right to review and comment upon the presentence report prior to imposition of sentence;
 - the right to seek restitution; and the right to a reasonably prompt conclusion of the case.



RIGHTS OF THE VICTIM UNDER STATE LAW

Louisiana Constitution Article I, § 25 - Declaration of Rights

- The legislature shall enact laws to implement this Section. The evidentiary and procedural laws of this state shall be interpreted in a manner consistent with this Section.
- Nothing in this Section shall be construed to inure to the benefit of an accused or to confer upon any person the right to appeal or seek supervisory review of any judicial decision made in a criminal proceeding. Nothing in this Section shall be the basis for an award of costs or attorney fees, for the appointment of counsel for a victim, or for any cause of action for compensation or damages against the state of Louisiana, a political subdivision, a public agency, or a court, or any officer, employee, or agent thereof. Remedies to enforce the rights enumerated in this Section shall be provided by law.”



RIGHTS OF THE VICTIM UNDER STATE LAW

Rights of Crime Victims and Witnesses - La. R.S. 46:1841 *et seq.*

- Ensures that “all victims and witnesses of crime are treated with dignity, respect, courtesy, and sensitivity, and that the rights extended in this Chapter to victims and witnesses of crime are honored and protected by the law enforcement agencies, prosecutors, and judges in a manner no less vigorous than the protection afforded the criminal defendants.” See La. R.S. 46:1841, Legislative Intent.



RIGHTS OF THE VICTIM UNDER STATE LAW

Rights of Crime Victims and Witnesses

- La. R.S. 46:1841 *et seq.*

■ La. R.S. 46:1842(9) - Definition of Victim:

- "Victim" means a person against whom any of the following offenses have been committed:
 - (a) Any homicide, or any felony offense defined or enumerated in R.S. 14:2(13).
 - (b) Any sexual offense.
 - (c) The offenses of vehicular negligent injuring and first degree vehicular negligent injuring.
 - (d) Any offense against the person as defined in the Criminal Code committed against a family or household member as defined in R.S. 46:2132(4) or dating partner as defined in R.S. 46:2151(B).



RIGHTS OF THE VICTIM UNDER STATE LAW

Rights of Crime Victims and Witnesses - La. R.S. 46:1841 *et seq.*

- **La. R.S. 46:1844 - Basic Rights for Victims and Witnesses:**
 - Services and information concerning services available to victims and witnesses of a crime.
 - Advance notification to victim, or designated family member concerning judicial proceedings; right to be present. If requested by registering with the appropriate
 - Interviewing the victim and witness of a crime.
 - Consultation with the victim or the designated family member.
 - Notification to employers.
 - The victim and witness in the court setting.
 - Pre-sentence or post-sentence reports.
 - Rules governing evidence and criminal procedure
 - Speedy disposition.
 - Right of victim or designated family member to be present and heard at all critical stages of the proceedings.
 - Return of property to victim or family of victim.
 - Victims' right to seek restitution.
 - Notification of pardon or parole.
 - Victim assistance education and training.
 - Preparation of victim notice and registration forms.
 - Failure to comply.
 - Registration with the appropriate law enforcement or judicial agency.
 - Crime victim's assistance hotline.
 - Confidentiality of crime victims who are minors, victims of sex offenses, and victims of human trafficking-related offenses.



RIGHTS OF THE VICTIM UNDER STATE LAW

Victims' Rights under La. R.S. 17:3399.13.4

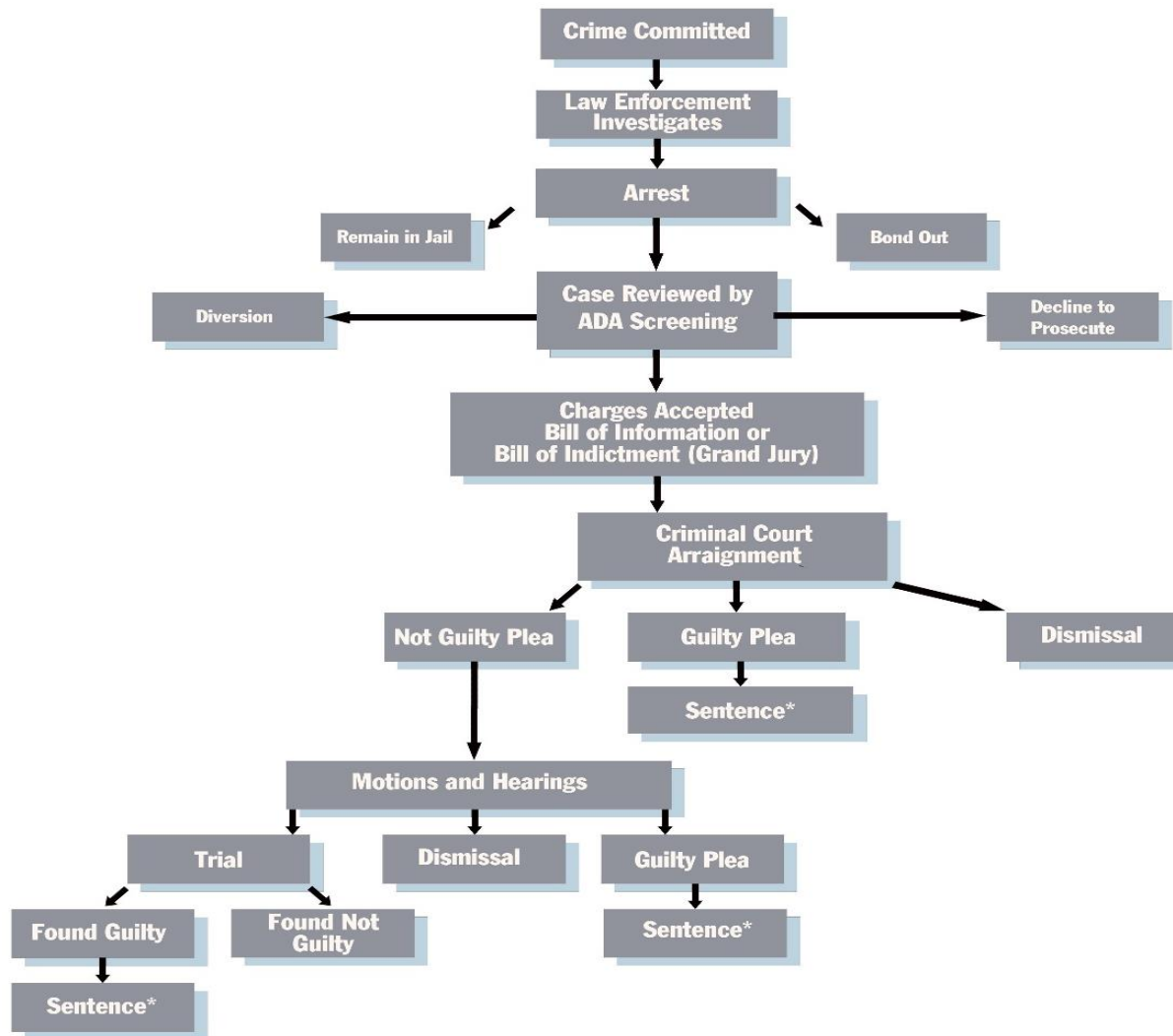
A. Unless waived in writing by the alleged victim, the identity of an alleged victim of an incident reported under R.S. 17:3399.13 is confidential and not subject to disclosure except to:

- (1) A person employed by or under contract with the institution to which the report is made, if the disclosure is necessary to conduct the investigation of the report or any related hearings.
- (2) A law enforcement officer as necessary to conduct a criminal investigation of the report.
- (3) A person alleged to have perpetrated the incident, to the extent required by law.
- (4) A potential witness to the incident as necessary to conduct an investigation of the report.

B. The alleged victim shall have the right to obtain a copy of any report made pursuant to this Part that pertains to the alleged victim.



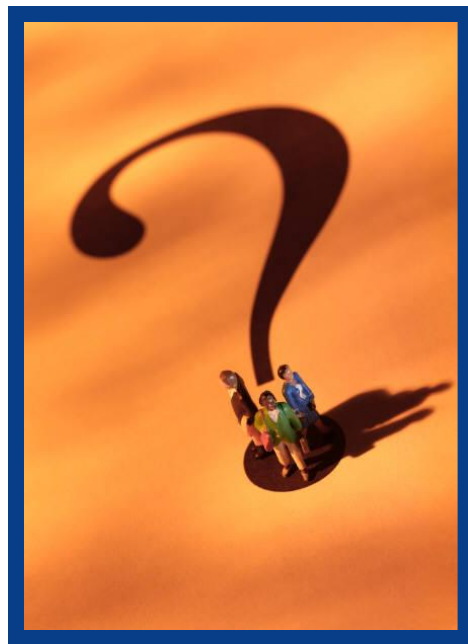
PROCESS OF ADJUDICATION OF THE CRIMINAL JUSTICE SYSTEM



*At any sentencing stage, a defendant could possibly qualify for one of the judicial Specialty Courts.



ANY QUESTIONS ?



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