

VICTIM AND WITNESS RIGHTS

GREAT BARRINGTON POLICE DEPARTMENT POLICY & PROCEDURE NO. 4.43	EFFECTIVE DATE: 11/9/15
	REVISION DATE:
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 55.1.1	REVIEW DATE: 1/3/2019

Massachusetts General Laws Chapter 258B sets forth the Victim Witness Bill of Rights. This Bill of Rights is consistent with our Department Mission: Our duty is to serve our community by providing a safe environment in which to live, learn and grow. We train, dedicate and commit ourselves to performing this mission in a manner that inspires confidence and respects the rights and needs of all.

Therefore, it is the policy of the Great Barrington Police Department to abide by the provisions of MGL Ch. 258B.

Although many portions apply primarily to other components of the State government and the judicial system; and we would typically refer them to the District Attorney's Victim-Witness Assistance staff; it is still important for our personnel to be aware of all provisions, so that they may assist crime victims, witnesses and their family members in obtaining their rights and services under this statute.

A. CHAPTER 258B § 3: RIGHTS OF VICTIMS AND WITNESSES OF CRIME

The following section contains a summary of MGL C 258B § 3, subtitled **Rights afforded victims, witnesses or family members**. The full text is available online at Online: <http://www.mass.gov/legis/laws/mgl/258b-3.htm>
[Brackets are used to note excerpted section, or offer commentary.]

1. To provide victims a meaningful role in the criminal justice system, victims and witnesses of crime, or in the event the victim is deceased, the family

members of the victim, shall be afforded the following basic and fundamental rights, to the greatest extent possible and subject to appropriation and to available resources, with priority for services to be provided to victims of crimes against the person and crimes where physical injury to a person results:

(a) for victims, to be informed by the prosecutor about the victim's rights in the criminal process, including but not limited to the rights provided under this chapter. At the beginning of the criminal justice process, the prosecutor shall provide an explanation to the victim of how a case progresses through the criminal justice system, what the victim's role is in the process, what the system may expect from the victim, why the system requires this, and, if the victim requests, the prosecutor shall periodically apprise the victim of significant developments in the case;

(b) for victims and family members, to be present at all court proceedings related to the offense committed against the victim [with legal exceptions noted];

(c) [excerpt] for victims and witnesses, to be notified by the prosecutor... when a court proceeding to which they [were] summoned will not go on as scheduled...;

(d) for victims and witnesses, to be provided with information by the prosecutor as to the level of protection available and to receive protection from the local law enforcement agencies from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts;

(e) for victims, to be informed by the prosecutor of financial assistance and other social services available to victims, including... [how to apply for them];

(f) for victims and witnesses, to a prompt disposition of the case in which they are involved as a victim or a witness;

(g) for victims, to confer with the prosecutor before the commencement of the trial, before any hearing on motions...[also records requests, nolle prose, dropping of any charges, sentence recommendations, etc]... The prosecutor shall inform the court of the victim's position, if known, regarding the prosecutor's sentence recommendation... [with exceptions noted];

(h) for victims and witnesses, to be informed of the right to request confidentiality in the criminal justice system. Upon the court's approval of such request, no law enforcement agency, prosecutor, defense counsel, etc. may violate. [If there is an order, we must abide by it];

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- (i) for victims, family members and witnesses, to be provided ... with a secure waiting area or room which is separate from the waiting area of the defendant or the defendant's family, friends, attorneys or witnesses, during court proceedings. The court shall, ... [designate safe areas and safeguards to accomplish this];
- (j) for victims and witnesses, to be informed by the court and the prosecutor of procedures to be followed in order to apply for and receive any witness fee to which they are entitled;
- (k) for victims and witnesses, to be provided, where appropriate, with employer and creditor intercession services by the prosecutor to seek employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process, and to seek consideration from creditors if the victim is unable, temporarily, to continue payments;
- (l) for victims or witnesses who have received a subpoena to testify, to be free from discharge or penalty or threat of discharge or penalty by his employer by reason of his attendance as a witness at a criminal proceeding. A victim or witness who ... [tells his employer why he/she has to miss work, cannot face repercussions... since we may be the ones they tell of a problem with their employer, we must be ready to take appropriate steps to advise the court ...];
- (m) for victims and witnesses, to be informed of the right to submit to or decline an interview by defense counsel or anyone acting on the defendant's behalf, except when responding to lawful process, and, if the victim or witness decides to submit to an interview, the right to impose reasonable conditions on the conduct of the interview;
- (n) for victims, to confer with the probation officer prior to the filing of the full presentence report. If the victim is not available or declines to confer, the probation officer... [shall document their attempts and actions];
- (o) for victims, to request that restitution be an element of the final disposition of a case and to obtain assistance from the prosecutor in the documentation of the victim's losses. If restitution is ordered as part of a case disposition, the victim...
[has access to appropriate info, and to be heard regarding modifications];
- (p) for victims, to be heard through an oral and written victim impact statement at sentencing or the disposition of the case against the defendant about the effects of the crime on the victim and as to a recommended sentence, ... The victim also has a right to submit the victim impact statement to the parole board... ;
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(q) for victims, to be informed by the prosecutor of the final disposition of the case, including, where applicable, an explanation of the type of sentence imposed by the court and a copy of the court order setting forth the conditions of probation or other supervised or unsupervised release within thirty days of establishing the conditions, with the name and telephone number of the probation officer, if any, assigned to the defendant;

(r) for victims, to have any personal property that was stolen or taken for evidentiary purposes, except contraband, property subject to evidentiary analysis, and property the ownership of which is disputed, returned by the court, the prosecutor or law enforcement agencies within ten days of its taking or recovery if it is not needed for law enforcement or prosecution purposes or as expeditiously as possible when said property is no longer needed for law enforcement or prosecution purposes;

(s) for victims, to be informed by the parole board of information regarding the defendant's parole eligibility and status in the criminal justice system;

(t) for victims, to be informed in advance by the appropriate custodial authority whenever the defendant receives a temporary, provisional or final release from custody, ...moved from a secure facility to a less-secure facility, ... or escapes from custody. The victim shall be informed by the prosecutor ... [how to] access the criminal offender record information files. ...[the victim] must provide...current [contact] information;

(u) for victims, to be informed that the victim may have a right to pursue a civil action for damages relating to the crime, regardless of whether the court has ordered the defendant to make restitution to the victim.

(v) for one family member of a victim of a homicide, which the matter before the court is related, to possess in the courtroom a photograph of the deceased victim [with restrictions noted].

(w) Where the victim or witness is an employee of the department of youth services, no law enforcement agency, prosecutor, defense counsel or parole, probation or corrections official shall disclose or state the residential address, telephone number or place of employment or school of the victim, a victim's family member or a witness, except as otherwise ordered by the court. (effective July 2012)

ISSUING AUTHORITY:

Chief William R. Walsh Jr.:

