

**The Keri Anne DeMott Foundation
Victim Services**



Victim Impact Statement

**www.TheKeriAnneDeMottFoundation.com
(407) 776 -4694**

501(c)3 non-profit

DEFINING A VICTIM IMPACT SYSTEM

A Victim Impact Statement is a written or oral statement presented to the court at the sentencing of the defendant. Many times, victims, their family members, and friends of the victim participate in both written and verbal statements. Often, numerous individuals write letters to the sentencing judge and only a few of those directly affected by or connected to the crime speak at sentencing.

Victim Impact Statements were created as an opportunity for the judge to hear how a criminal action has affected you and those that you love. Victim Impact Statements are not limited to the courts. Many times, probation or paroling agencies will allow an opportunity to present a victim impact statement as well.

Victim Impact Statements provide an opportunity for you to describe to the court the impact the crime has had on your life. It may be the only opportunity you have to participate in the criminal justice process or to address the offender directly. A Victim Impact Statement isn't a perfect essay; it's about writing from your heart. It presents the true realities of victimization with those who haven't gone through it themselves and to the offender who has hurt you.

You will learn that the court is often bound by predetermined guidelines at sentencing. If discretion is allowed, however, it is important that the judge have access to as much information as you can provide about how your life has been negatively impacted by the offense committed against you and / or your loved one.

Impact statements may help the judge determine the offender's sentence or place an order for restitution. The court can also order the offender to pay you for crime-related expenses. Some judges are reluctant to order restitution, especially when the offender is going to prison and may have limited opportunities to earn money. However, most state law requires a judge to listen to your request and to consider restitution if your request is reasonable. It is also important to remember that members of the media often have substantial interest in crime victims. Victim Impact Statements and the stories they generate may help educate the public about the effects of the crime. Therefore, the public could become more sensitive to victims because they are aware of the impact of drunk, impaired, and distracted driving.

**It's An
Important Part of The
Grieving And
Healing Process**

Something to keep in mind is that even if you choose not to prepare a Victim Impact Statement the family of the offender is often allowed to participate by testifying on their loved one's behalf. If you choose not to provide this information, the balance of information could be weighted in favor of the defendant.

YOUR RIGHT TO MAKE A STATEMENT

Victim Impact Statements are not presented during the first part of a trial. The focus of the first part of a trial is to determine the facts of the case to determine guilt or innocence. The Victim Impact Statement is presented after a defendant has been found guilty or pleaded guilty to the crime during the sentencing portion of the justice process.

The right to present a written or oral impact statement in court addressing how much this crime has affected you and your loved ones, is guaranteed in every state. This right is given by the **Crime Victims' Rights Act**.

This right is stated as such:

The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.

www.justice.gov

This right allows you to give a Victim Impact Statement.

How these rights are interpreted by a state can affect how a Victim Impact Statement is delivered. States differ regarding who is allowed to give a Victim Impact Statement. Generally, injured victims/survivors and family members of someone who was injured or killed are often allowed to give a Victim Impact Statement.

Some states allow multiple people to deliver impact statements in person or via video and other states will only allow one person per family. All states allow submission of a written statement. Some states provide a form that guides you when developing your Victim Impact Statement, although in most states you are not required to use it.

Many forms do not allow enough space for you to fully express yourself and some of the instructions may be confusing. If you have been given a Victim Impact Statement form, you can ask a KAD Foundation Victim Advocate or prosecuting attorney if you are required to use it or if you may write your Victim Impact Statement using your own paper.

PREPARING YOUR STATEMENT

When you are ready to begin writing your rough draft.

Here are some tips to may help you:

- Write Simply and Descriptively.
- Your Goal Is to Help the Court Feel Your Loss.
- Your Words Will Help Others in The Court Understand Your Experience.
- Write In Short Sentences and Paragraphs.
- Leave Space Between Paragraphs.
- Ask Someone to Check Your Statement Draft for Spelling and Grammar Before Writing Your Final Version. *(These statements are often kept by the court and in the files.)*

When possible, start to prepare early to avoid the stress of last-minute writing after the conviction. Focus on what the crime means to you, your loved one(s) physically, emotionally, financially, and spiritually. Write and speak from the heart about your pain.

Keep the statement relatively short, reading it aloud should take no longer than 5 to 10 minutes.

When the statement is short and simple it will help you keep the attention in the courtroom. You can write your statement by hand or type it. Consider including a photograph as part of your statement.

You can find examples of Victim Impact Statements online or ask your Victim Advocate / attorney for a form. Show respect to the court by addressing the judge as “Your Honor” and refrain from unsuitable language (*profanity, etc.*). It will dilute and take away from the effectiveness of your statement. Consider writing a couple of sentences about how difficult it is to prepare your statement and why. Only write things that you know are true. In most states, the defendant, through his or her attorney, can question or object to statements not believed to be factual. In a few states, the defense attorney can cross-examine the victim about what has been said in the statement. Ask your victim assistance provider if this is allowed in your state.



How to Write a Victim Impact Statement?

As you are preparing your impact statement, you may find that using the following questions can guide you. Remember that writing about your feelings may be very painful, so be sure to pace yourself and don't feel that you need to have it “perfect”. Be gentle with yourself and take as many breaks as you need. As you are preparing your statement, you may find that the following questions can guide you:

- How Did the Crime Affect You and Your Family?
- What Was the Emotional Impact of The Crime on You and Your Family?
- What Was the Financial Impact on You and Your Family?
- Do You Have Any Recommendations to The Court About Disposition (Sentencing) Of This Case?
- Is There Anything Else You Would Like to Tell the Court?

Victim Impact Statements are unique to you and people have various ways of expressing how this crime has affected them. Even though guidelines are typically given to you before sentencing, and there is a lot of flexibility in how you present your statement, there are things you will need to take into consideration.

Write simply and descriptively. Your goal is to help the court and the judge feel your grief and or loss. While nobody can truly understand what you are feeling, you can help others by using descriptive words that can help people form an image of what you are saying and feeling.

DO'S AND DON'TS

Do:

Address the judge, or paroling authority, when you speak. You may want to talk directly to the offender. If this is something you want to do, ask permission from the judge first. You can still say what you need regarding the offender through the judge.

Do:

Ask permission if a picture is part of your statement. Often this is allowed, but any visual aids you utilize will need permission from the court first.

Do:

Write out your statement in advance. Presenting a statement is emotional. You may think you know what you want to say but when the time comes, your emotions could take over and your train of thought is lost. If this occurs, you can read directly from your statement.

Do:

Have an alternate person that can read your statement in case you cannot finish.
i.e., Victims Advocate or your attorney, even a family spokesperson

Don't:

Directly express your anger toward the court or the offender. Your goal is to express and explain your hurt, not to blame. The blame has already been placed on the offender, so now is the time to talk about what you have been experiencing through your loss.

Don't:

Use unsuitable language, as it will diminish the effectiveness of your statement.

Don't:

Describe what you personally want to have happen to the offender in prison. Please do not get descriptive about any harm you would like to see imposed.

Don't:

Add personal, information in your written or verbal statement in court. This includes your physical address, mailing address, email address and phone number. The offender will be provided copies of all letters submitted. If you state this out loud in court, it will give the offender an opportunity to contact you in the future.

CAUSE AND EFFECT

What Happens to my Victim Impact Statement? Do I Have to Read it in Court?

Preparing and presenting an impact statement in court, or in front of a paroling or probation agency, can be intimidating. If you do not think you can physically stand in front of the offender and read your statement, have an alternate in mind beforehand. It does not matter who presents your statement if you have identified this person in advance. Many times, victim advocates are asked to present impact statements. It does not have to be a victim advocate and should be someone you feel comfortable expressing your words.

If you submit a letter, this will become part of the court file, the prosecutor's file, and defense file. Victim Impact Statements can also be included in the offender's Department of Corrections file. It could be subject to public disclosure. Therefore, it is essential to not include contact information in your statements, written or verbally.

Why Write a Victim Impact Statement?

It is not mandatory you write an impact statement. This is a right you have but not one you must participate in. Many choose not to participate. There are several reasons why Victim Impact Statements are beneficial. The reasons stated below are just a few.

- The judge gets to hear your side of the story.
- This is usually the first time this occurs.
- Throughout the criminal justice process, the focus is on the offender.
- Hearing from those that are affected by the crime puts a face with an often-forgotten victim.

You have a chance to tell the judge how you want sentencing to occur. Often, cases conclude by a plea offer. Many times, the prosecutor and defense have agreed to a recommended amount of time. The judge is not bound by that agreement. You can make a difference in the amount of time an offender receives by speaking up. This is true in cases that go to trial as well. You can address the court, and the offender by way of the court, about how the crime has affected you.

Many find this helpful in the journey of victimization. Letting those know how they harmed you can be beneficial for emotional well-being. The impact statement becomes part of the offender's permanent file. It is a reminder of the harm they caused you.

When a loved one is killed

If your loved was killed, describe all the different ways the crash has impacted your body. How has the crash affected you physically?

- Do You Experience More Frequent Headaches?
- Have You Gained or Lost Significant Weight?
- Have You Developed Stress-Related Illnesses Since the Death?
- Have You Visited a Doctor More Frequently?
- Do You Experience Pain That You Did Not Suffer Before the Death?
-

The Emotional Impact of the Crime

- How Do You Feel Emotionally When You Wake Up in The Morning?
- What Do You Think About?
- How Often Do You Cry? (*Describe The Last Time You Cried*)
- What Do You Think About When You Go to Bed at Night?
- How Difficult Is It for You to Sleep? How Long Do You Sleep? Do You Have Nightmares?
- About How Much of Every Day Do You Feel Sad?
- Do You Feel More Tired Than You Did Before the Crime?
- Have You Been Diagnosed with Depression, Anxiety, Post-Traumatic Stress Disorder, Or Any Other Stress-Related Illness Since the Crime?
- Are You on Any Medications for Those Conditions?
- Have You Considered Suicide Since the Crime?
- Have You Had Difficulties with Relationships Since the Crime?
- How Has It Affected Your Family Life?
- Has Your View of The World as A Safe and Fair Place Changed Since the Crime?
- Has Your Spirituality Changed Since the Crime?
- Have You Had Difficulty Completing Day to Day Activities That Are Related to Circumstances of The Crime?

If You Have Children Who Have Been Impacted by This Crime, Consider the Following Questions:

- How Has Your Child Been Emotionally Impacted by This Crime?
- Has Your Child Regressed Developmentally Because of This Crime?
- How Has Your Child's School Performance Changed?
- How Has Your Child's Relationship with Family Members and Friends Changed?
- Has Your Child Required Counseling? If So, How Has It Helped? If Not, Why Not?

**What Will
Make You
Feel Safe?**

Sentencing Requests:

What do you want to happen to the offender regarding sentencing?

You, as the victim of the crime, are **allowed to give input** on what you would like to see happen. If you want the offender to go to prison, ask your Victim Advocate or prosecutor for the range of time that corresponds with each conviction. You should consider recommending several years within that range. If you want the maximum sentence according to the law, you can say that.

It's possible you may not want the offender to go to prison. You have the right to state that as well.

In addition to asking for a specific sentence, you may request that the court order the offender to do certain things in prison or while on *probation* (monitored by a community program *rather than* going to prison) or *parole* (monitored by a community program *after being released* from prison).

Violation of the conditions of probation or parole can result in the offender going to, or back to prison. What would you like the court to do to help you feel safer when the offender returns to the community? Consider including requests in your Victim Impact Statement that will make you feel safer.

A list of items that a judge can order in court (not exhaustive):

- No Alcohol or Other Drug Use
- Submit To Random Alcohol or Another Drug Testing
- Alcohol Or Another Drug Treatment
- Pay For Mandatory Urinalysis
- Participate In Victim Awareness Classes in Prison (*If Available*)
- Attend Victim Impact Panels or Classes If Returned to The Community (If Available)
- Have No Contact with The Victim or The Victim's Family
- Pay Full or Partial Restitution. Some Victims Require Only a Small Amount Paid Every Week to Remind the Offender of The Crime.
- Restrictions On Where the Offender Can Live in The Community
- Perform Community Service And/or Donate to An Agency That Relates to The Crime, Like the Keri Anne DeMott Foundation.

In these cases, however, both the victim and the agency must agree to the community service placement before it is ordered.

- Electronic Monitoring Via an Ankle Bracelet
- Installation Of an Ignition Interlock or In-Car Breathalyzer on Automobiles
- Meet With the Victim If Both Desire a Meeting and After Both Have Been Professionally Prepared
- Write Weekly Letters from Prison Describing Prison Life (*To the Victim's Family or To the Offender's Own Family or Children*)
- No Internet Access

Have Your Voice Heard.

Refining Your Statement:

After you have a rough draft, it's best to spend time cutting it down and refining it before you deliver it to the court. It is usually difficult to find adequate words to describe what has happened to you. Nonetheless, words can be the most powerful tool you have in the courtroom, so try to make the best of them.

Your Victim Impact Statement should take no more than 10 minutes of reading or listening time to make the greatest impression. Go over what you have drafted and underline or highlight the parts of each section that you think are most important to understand what you are going through.

Now write a new draft keeping the tips in mind.

Helping Children Create Impact Statements:

If a child was injured or had a family member injured or killed in a crash, consider also including a Victim Impact Statement from them as well as talking about it in your statement. You should do this only if your child indicates an interest in doing so.

If your child is unable to read, help him or her by asking questions and writing the statement for them. If your child can read and write and wants to participate, consider allowing them to answer these questions themselves in their own separate statements. They can also draw a picture to show how the crime has impacted them.

- What Is Your Name?
- How Old Are You?
- Do You Go to School?
 - If So, What Is the Name of Your School?
 - What Grade Are You In?
- How Do You Feel About What Happened to You? (*Examples: Happy, Sad, Mad, Scared, Confused, Other*)
- What Do You Think Should Happen to The Person Who Caused This Crime? (*Examples: Go to Jail, Pay Money to My Family, Get Some Help for His or Her Behavior, Nothing, Other*)

**Community Impact Statements
Focus On Peace, Safety,
And Quality of Life.**

Community Impact Statements:

Communities and neighborhoods, as well as individuals, can be victims of crime. A known drunk, impaired, or distracted driver with a reputation for unsafe driving can frighten an entire neighborhood. A neighborhood that prides itself on peace, safety, and quality of life for adults and children is violated by the anxiety caused by a drunk and/or drugged driver. Community Impact Statements focus on peace, safety, and quality of life. Concerned citizens may wish to band together to form a community watch to determine the offender's driving schedule. Knowing the habits of a drunk, impaired, or distracted driver provides residents with information that may help keep their children and property safe. In these cases,

prosecutors are adopting the notion of community prosecution that involves neighborhood or community Victim Impact Statements.

Sometimes the prosecutor's office works with individuals and neighborhood associations to gather information for impact statements that are presented at the sentencing hearing. Residents are sent information regarding the offender's length of incarceration after sentencing.

Conducting a Community Impact Statement may have several benefits:

- It Can Allow the Court to See the Impacts the Crime Has Made in a Neighborhood; Emotionally or Possibly Physically If There Has Been a Crash.
- It Can Bring About Awareness in The Community About the Efforts of Law Enforcement in The Arena of Substance Impaired Driving.
- It Can Encourage Involvement of Community Members by Allowing Them to Participate.
- It Can Provide Support to A Victim/Survivor and Their Family.

A Community Impact Statement can be prepared in several ways.

- Citizens Can Come Together to Draft a Statement.
- Individuals Can Write Statements That Can Be Edited and Combined into One Statement Signed by All.
- Or Many Residents Can Write Short Impact Statements That Are Stapled Together and Presented to The Court as A Packet.

If members of the community want to present a Victim Impact Statement, it's important for them to contact the prosecuting attorney's office to find out if it is permissible.

PRESENTING YOUR STATEMENT IN PERSON

You may be given the opportunity to present your Victim Impact Statement orally at the sentencing of the offender which is sometimes referred to as **Allocution**.

**An allocution, or allocutus, is a formal statement made to the court by the defendant who has been found guilty prior to being sentenced. It is part of the criminal procedure in some states. **

Here are a few things to think about if you are appearing in court:

- Courtroom attire should reflect the seriousness of the business that transpires there.
- While it is not necessary to wear a business suit, clean, well-pressed clothing is expected.

Women should wear dress pants, a dress or a skirt that is not too short and a blouse that is not designed with a low-cut neckline.

Men should wear long pants and a solid color shirt. Soft colors are more effective than vivid colors.

- When in doubt, choose a conservative outfit.
- Avoid jewelry that could detract from your face.
- Hair should be clean.
- Facial hair should be neat and trimmed.

Your goal is to have the members of the court focus on your face, not your attire.

Victim Impact Statements at Parole Hearings:

Most states allow Victim Impact Statements at parole hearings of offenders. Your original statement may not always be included in the convicted offender's corrections file even though the law states it should be. You will want to be sure it is filed, but you may also want to present an updated Victim Impact Statement when the offender comes up for parole. To assure that you will be notified, keep the parole board updated with your current contact information. Some states have a system of notification called **VINE**, which stands for **Victim Information and Notification Every day**. The system allows victims to find out the custody status of the offender.

You can access the information online at www.vinelink.com.

Call your Victim Advocate or prosecutor's office if you have questions and to assure that you will be informed when the offender is eligible for parole.

Your revised statement should include new physical, emotional, or financial consequences of the crime since sentencing was imposed. It should also include any evidence of unwanted communication you have received from the offender or the offender's representatives. If parole hearings are conducted in a location far from where you live, a video or audiotaped statement may be prepared if allowed by state law.

PRESENTING VIA AUDIO OR VIDEO

If you are not comfortable presenting in person or are unable to attend the sentencing, ask your prosecutor or Victim Advocate if your statement may be recorded on audio or video.

It may not be quite as effective, but it may be a good option if it's not possible to be present.

**Show your
sincerity.**

Your goal on video should be to make yourself appear as sincere as possible to the court.

It is crucial that the tape be of excellent quality. Your presentation should not be long (*no more than 5 to 10 minutes*), and you should not have it edited.

You may choose to record it several times before deciding on a final version. Quality lighting and skilled recording will make your presentation more effective. It's also possible your prosecutor has audio or videotape equipment in the office.

If you choose to make a statement on videotape and your physical appearance has changed since the crime, you may want to hold a photo of yourself, of the way you looked before the crime.

If your loved one was killed, you may want to hold his or her photo as you are recording. The predominant image on the video, however, should be your face. This will enhance the ability of the court to witness the sincerity of your statement.

Consider following the same rules for dress and makeup as noted above.

If you are not yet connected with a Victim Advocate, it may be a good time to contact us. The Keri Anne DeMott Foundation Victim Advocates can help with a variety of services, including assisting you with your Victim Impact Statement.

When you are ready and wish to reach out and speak to someone about what you are going through or need assistance in finding resources, please contact:

The Keri Anne DeMott Foundation

(407) 776 – 4694

Or email us

victimservices@thekeriannedemottfoundation.com

to connect with one of our Victim Advocates who will be ready to listen and assist you in any way we possibly can.

#NoMoreEmptySeats

