

Introduction to Victims' Rights Attorneys & Advocates

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Victims' rights attorneys and victim advocates are two types of professionals that help victims of crime. They can help victims at any stage: before a report is made to law enforcement; after a report has been made; throughout any criminal investigation, charging, trial and sentencing; and during post-conviction proceedings such as parole hearings. This guide highlights some key similarities and differences between victims' rights attorneys and victim advocates.

Victim's Rights Attorneys

- Provide legal representation to victims.
- Give legal advice about what victims can or should do.
- Appear in court and file motions and other legal documents on behalf of the victim.
- Communications with clients are confidential and privileged—meaning there are strong privacy laws that prevent disclosing attorney-client communications to other people in legal proceedings.

1

Both

Provide information, referrals to resources, and support to victims of crime.

Explain how the justice systems work and answer questions about upcoming court proceedings.

2

Victim Advocates

- Identify resources for necessities such as food, housing/shelter, clothing, hygiene products, and transportation.
- Communications with victims are kept as confidential as possible, but they may be required to share information with others.
- System-based advocates are required to share more information than community-based advocates.

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- Unlike victims' rights attorneys, victim advocates cannot give legal advice. This means they cannot tell a victim how the law applies to the victim's particular circumstances.

Prosecutors are not victims' attorneys.

Unlike victims' rights attorneys, prosecutors cannot represent victims of crime. Prosecutors represent the government. Sometimes, prosecutors may be able to assert the victims' rights in court on the victim's behalf. For example, the Oregon Constitution provides that "Upon the victim's request, the prosecuting attorney, in the attorney's discretion, may assert and enforce a right established in this section." Or. Const. art. I, §42(4).

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- Community-based victim advocates work for nonprofit organizations serving victims of crime. System-based victim advocates work for the government, such as law enforcement, prosecutors, or corrections.
- Communications with some community-based advocates might be privileged and protected by stronger privacy laws. Communications with system-based advocates are generally not privileged. The law requires system-based advocates to share certain information with prosecutors, and prosecutors may be required to share some information with the criminal defendants' attorneys.
- Because the privacy protections offered by victim advocates may be very different from one advocate to another, it is important for all victim advocates to inform victims what information the advocates may have to share and what limits they have on their ability to keep victims' information private.

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