

9-28.1400 – Interests of the Victims and Others Significantly Harmed

A. General Principle: In deciding whether to charge a corporation, prosecutors should consider the interests of any victims, as well as individuals or entities who were significantly, even if indirectly, harmed by the criminal conduct.

B. Comment: It is important to consider the economic and psychological impact of the offense, and subsequent prosecution, on any victims or others significantly harmed. Prosecutors should take into account such matters as the seriousness of the harm inflicted and how prosecution can redress or exacerbate such harm. In accordance with the Crime Victims' Rights Act and the [Attorney General Guidelines for Victim and Witness Assistance](#), prosecutors shall make best efforts to solicit the victim's views in advance of and about major case decisions such as voluntary dismissals, plea negotiations, non-prosecution agreements, deferred prosecution agreements, pretrial diversion agreements, plea agreements, agreements in favor of the release of the accused pending judicial proceedings (when such release is for non-investigative purposes), sentencing recommendations, and restitution.

Additionally, prosecutors should make best efforts to provide information and assistance to those individuals or entities who may fall outside of the statutory definition of a victim, but were nevertheless significantly, even if indirectly, harmed by the criminal conduct, within available resources and to the extent reasonable, feasible, and appropriate. This information and assistance includes consultation with prosecutors prior to entry into a non-prosecution agreement, deferred prosecution agreement, pretrial diversion agreement, or plea agreement, as well as any agreement that would require an offender to pay restitution or other compensation to, or for the benefit of, the significantly harmed persons or entities. For more information regarding the Department's obligations to victims and to those others significantly harmed, see the Crime Victims' Rights Act, 18 U.S.C. § 3771, the Victims' Rights and Restitution Act, 34 U.S.C. § 20141, and the [Attorney General Guidelines for Victim and Witness Assistance](#).

Prosecutors should be aware that pursuant to the VOCA Fix to Sustain the Crime Victims Fund Act of 2021 (Pub. L. 117-27), monetary penalties collected under deferred or non-prosecution agreements will be treated equivalently to most monetary penalties collected after a criminal conviction and deposited into the Crime Victims Fund (CVF). The CVF is a statutorily created fund, administered by the Department's Office for Victims of Crime, that is financed by monetary penalties collected and paid as a consequence of a federal criminal conviction or deferred or non-prosecution agreement. *See* 34 U.S.C. § 20101. Money from the CVF is used to: support federal, tribal, state, and local crime victim assistance programs; provide financial assistance and reimbursement for expenses to crime victims (*e.g.* medical bills, funeral expenses); provide direct services to victims (*e.g.*, counseling, legal assistance, housing); fund victim-witness coordinator positions in the United States Attorneys' Offices; fund FBI victim specialist positions; fund the Emergency Witness Assistance Program (EWAP); and fund the Victim Notification System.

[updated March 2023]