

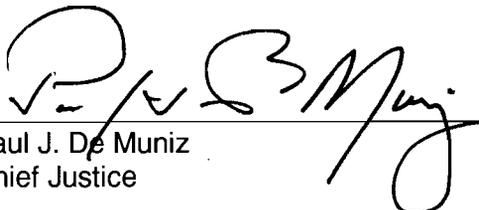
In the Matter of Out-of-Cycle Amendment of UTCR 4.100; Repeal of UTCR 4.110, 4.120, and 4.130; Repeal of UTCR Forms 4.120.1 and 4.130.1; and Adoption of New UTCR Forms 4.100.1a, 4.100.1b, 4.100.2a, and 4.100.2b) CHIEF JUSTICE ORDER) No. 09-058) ORDER OF OUT-OF-CYCLE AMENDMENT) OF UTCR 4.100; REPEAL OF UTCR 4.110,) 4.120, AND 4.130; REPEAL OF UTCR) FORMS 4.120.1 AND 4.130.1; AND) ADOPTION OF NEW UTCR FORMS) 4.100.1a, 4.100.1b, 4.100.2a, AND 4.100.2b
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I HEREBY ORDER, pursuant to ORS 1.002 and UTCR 1.020, that

1. Good cause has been shown and the effective date, requirements, and time limits established by UTCR 1.020(2), (3), and (4) are waived for the UTCR changes implemented by this order.
2. The following rules and forms are repealed:
 - a. UTCR 4.110
 - b. UTCR 4.120
 - c. UTCR 4.130
 - d. UTCR Form 4.120.1
 - e. UTCR Form 4.130.1
3. UTCR 4.100 is amended as shown in Attachment A to this order. For the convenience of the reader, deleted wording is shown in [*brackets and italics*] and new wording is shown in {**braces, underline, and bold**}. When this rule, as amended, is posted and published as part of the UTCR, these highlights will not be shown.
4. The following new forms, as shown in Attachment A to this order, are adopted:
 - a. UTCR Form 4.100.1a
 - b. UTCR Form 4.100.1b
 - c. UTCR Form 4.100.2a
 - d. UTCR Form 4.100.2b

This order takes effect immediately.

Dated this 13th day of October, 2009.



 Paul J. De Muniz
 Chief Justice

Uniform Trial Court Rules (UTCRC) 4.110, 4.120, and 4.130 are repealed; and UTCRC 4.100 is amended to read:

4.100 CRIME VICTIMS' RIGHTS – [*DEFINITIONS FOR UTCRC 4.110, 4.120, and 4.130*]
{PROSECUTOR'S NOTIFICATION AND CRIME VICTIMS' RIGHTS VIOLATION CLAIM}

- [(1) "*Critical-stage hearings*" means those hearings held in open court at which the defendant is present, including:
- (a) *release hearings;*
 - (b) *preliminary hearings;*
 - (c) *entry of guilty or no contest pleas;*
 - (d) *trial;*
 - (e) *restitution and sentencing hearings;*
 - (f) *probation or deferred sentencing violation or revocation hearings, when the basis for the alleged violation directly implicates a victim's rights;*
 - (g) *hearings for relief from the requirement to report as a sex offender;*
 - (h) *hearings in juvenile cases designated as a critical stage of the proceeding in ORS 419C.273; and*
 - (i) *any other stage of a criminal proceeding that the court determines is a critical stage of the proceeding for purposes of section 42, Article I of the Oregon Constitution.*
- (2) "*Victim*" has the meaning given in section 42(6)(c), and section 43(3)(a), Article I of the Oregon Constitution.
- (3) Any reference in UTCRC 4.110, 4.120, and 4.130 to "*defendant*" includes alleged youth offender and youth offender.
- (4) Any reference in UTCRC 4.110, 4.120, 4.130 to "*criminal proceeding*" includes juvenile delinquency proceedings.]
- {(1) The prosecuting attorney must file a notification of compliance as provided in Oregon Laws 2009, chapter 178, section 3, in substantially the form set out in Form 4.100.1a or 4.100.1b in the UTCRC Appendix of Forms.**
- {(2) To allege a violation of a right granted by Article I, section 42 or 43, of the Oregon Constitution, a victim may file a claim in substantially the form set out in Form 4.100.2a or 4.100.2b in the UTCRC Appendix of Forms. The claim must be filed with the court clerk's office in the court in which the criminal case is pending.}**

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR _____ COUNTY

STATE,) Case No. _____
)
 v.) PROSECUTING ATTORNEY'S NOTIFICATION
) OF COMPLIANCE WITH CRIME VICTIMS'
) CONSTITUTIONAL RIGHTS
 _____,)
 Defendant)

The charging instrument does does not include the name or pseudonym of each victim known to the prosecuting attorney.

- The additional victim(s) name(s) or pseudonym(s) known to this prosecutor is listed on this form or on the attached "Supplemental Victim Information Page."
- The listing of all victims in this case would be impractical for the prosecuting attorney.

My file indicates that I or a person known to me made a reasonable effort to give the following victim(s) information about the rights granted to victims by Article I, sections 42(1)(a) to (f) and 43, of the Oregon Constitution.

Victim's Name: _____

- Victims' rights information: Received Not received Unconfirmed
- Requested to be informed in advance of the following critical stages of the proceeding:
 All None Release Hearing(s) Plea Sentencing Other: _____
- Did Did not request that the prosecuting attorney assert and enforce the victim's constitutional rights, and the prosecuting attorney:
 did not agree to assert or enforce any rights.
 agreed to assert and enforce the following rights: _____
- The victim expressed intent to assert the victim's constitutional rights independently.
- The court suspended the victim's constitutional rights pursuant to Article I, section 42(5), of the Oregon Constitution.

Victim's Name: _____

- Victims' rights information: Received Not received Unconfirmed
- Requested to be informed in advance of the following critical stages of the proceeding:
 All None Release Hearing(s) Plea Sentencing Other: _____
- Did Did not request that the prosecuting attorney assert and enforce the victim's constitutional rights, and the prosecuting attorney:
 did not agree to assert or enforce any rights.
 agreed to assert and enforce the following rights: _____
- The victim expressed intent to assert the victim's constitutional rights independently.
- The court suspended the victim's constitutional rights pursuant to Article I, section 42(5), of the Oregon Constitution.

Submitted this _____ day of _____, 20_____.

Prosecuting Attorney
OSB No. _____

My file indicates that I or a person known to me made a reasonable effort to give the following victim(s) information about the rights granted to victims by Article I, sections 42(1)(a) to (f) and 43, of the Oregon Constitution.

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 - All None Release Hearing(s) Plea Sentencing Other: _____
- Did Did not request that the prosecuting attorney assert and enforce the victim's constitutional rights, and the prosecuting attorney:
 - did not agree to assert or enforce any rights.
 - agreed to assert and enforce the following rights: _____
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 - did not agree to assert or enforce any rights.
 - agreed to assert and enforce the following rights: _____
- The victim expressed intent to assert the victim's constitutional rights independently.
- The court suspended the victim's constitutional rights pursuant to Article I, section 42(5), of the Oregon Constitution.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR _____ COUNTY

In the Matter of: _____) Case No. _____
)
) PROSECUTING ATTORNEY'S NOTIFICATION
) OF COMPLIANCE WITH CRIME VICTIMS'
) CONSTITUTIONAL RIGHTS
_____,)
A Youth / Youth Offender.)

The charging instrument does does not include the name or pseudonym of each victim known to the prosecuting attorney.

- The additional victim(s) name(s) or pseudonym(s) known to this prosecutor is listed on this form or on the attached "Supplemental Victim Information Page."
- The listing of all victims in this case would be impractical for the prosecuting attorney.

My file indicates that I or a person known to me made a reasonable effort to give the following victim(s) information about the rights granted to victims by Article I, sections 42(1)(a) to (f) and 43, of the Oregon Constitution.

Victim's Name: _____

- Victims' rights information: Received Not received Unconfirmed
- Requested to be informed in advance of the following critical stages of the proceeding:
 All None Release Hearing(s) Plea Disposition Other: _____
- Did Did not request that the prosecuting attorney assert and enforce the victim's constitutional rights, and the prosecuting attorney:
 did not agree to assert or enforce any rights.
 agreed to assert and enforce the following rights: _____
- The victim expressed intent to assert the victim's constitutional rights independently.
- The court suspended the victim's constitutional rights pursuant to Article I, section 42(5), of the Oregon Constitution.

Victim's Name: _____

- Victims' rights information: Received Not received Unconfirmed
- Requested to be informed in advance of the following critical stages of the proceeding:
 All None Release Hearing(s) Plea Disposition Other: _____
- Did Did not request that the prosecuting attorney assert and enforce the victim's constitutional rights, and the prosecuting attorney:
 did not agree to assert or enforce any rights.
 agreed to assert and enforce the following rights: _____
- The victim expressed intent to assert the victim's constitutional rights independently.
- The court suspended the victim's constitutional rights pursuant to Article I, section 42(5), of the Oregon Constitution.

Submitted this _____ day of _____, 20_____.

Prosecuting Attorney
OSB No. _____

My file indicates that I or a person known to me made a reasonable effort to give the following victim(s) information about the rights granted to victims by Article I, sections 42(1)(a) to (f) and 43, of the Oregon Constitution.

Victim's Name: _____

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- Requested to be informed in advance of the following critical stages of the proceeding:
 - All None Release Hearing(s) Plea Disposition Other: _____.
- Did Did not request that the prosecuting attorney assert and enforce the victim's constitutional rights, and the prosecuting attorney:
 - did not agree to assert or enforce any rights.
 - agreed to assert and enforce the following rights: _____.
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 - did not agree to assert or enforce any rights.
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- The victim expressed intent to assert the victim's constitutional rights independently.
- The court suspended the victim's constitutional rights pursuant to Article I, section 42(5), of the Oregon Constitution.

Victim's Name: _____

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 - All None Release Hearing(s) Plea Disposition Other: _____.
- Did Did not request that the prosecuting attorney assert and enforce the victim's constitutional rights, and the prosecuting attorney:
 - did not agree to assert or enforce any rights.
 - agreed to assert and enforce the following rights: _____.
- The victim expressed intent to assert the victim's constitutional rights independently.
- The court suspended the victim's constitutional rights pursuant to Article I, section 42(5), of the Oregon Constitution.

4. I believe this conduct violated the following right(s) granted by Article I, sections 42(1)(a) to (g) and 43, of the Oregon Constitution:

- To be present at and, upon specific request, to be informed in advance of any critical stage of the proceedings held in open court when the defendant is present, and to be heard at the pretrial release hearing and the sentencing.
- Upon request, to obtain information about the conviction, sentence, imprisonment, criminal history, and future release from physical custody of the criminal defendant or convicted criminal.
- To refuse an interview, deposition, or other discovery request by the criminal defendant or other person acting on behalf of the criminal defendant.
- To receive prompt restitution from the convicted criminal who caused the victim's loss or injury.
- To have a copy of a transcript of any court proceeding held in open court, if one is otherwise prepared.
- Upon request, to be consulted regarding plea negotiations involving any violent felony.
- To be informed of the above-listed rights as soon as practicable.
- To be reasonably protected from the criminal defendant or the convicted criminal throughout the criminal justice process.
- To have decisions by the court regarding the pretrial release of a criminal defendant based upon the principle of reasonable protection of the victim and the public, as well as the likelihood that the criminal defendant will appear for trial.

5. In accordance with the rights provided in Article I, sections 42 and 43, of the Oregon Constitution, I request the following remedy:

6. I hereby request that the court grant an appropriate remedy or schedule a hearing to determine whether the victim's right(s) was violated.

Submitted this _____ day of _____, 20____.

Victim, Prosecuting Attorney or Private Attorney
OSB No. _____

Note: You must file this claim with the court clerk's office.
Supplemental Form – Victim Contact Information

Case Name: _____
Case No. _____

Please list your residential address or an alternate contact address at which you would like to receive information from the court regarding court hearings and court decisions. Until your claim is resolved, you must provide updated contact information to the court if your contact information changes. If you fail to keep the court informed, the court may dismiss your claim.

Name

Street Address or PO Box (Contact address may be used)

City State Zip Code

Telephone Number

Note: You must provide this page to the court and the prosecuting attorney; you do not need to provide this page to the defendant.

THIS INFORMATION MUST BE KEPT UNDER SEAL BY THE COURT.

4. I believe this conduct violated the following right(s) granted by Article I, section 42(1)(a) to (g) and 43, of the Oregon Constitution:

5.

- To be present at and, upon specific request, to be informed in advance of any critical stage of the proceedings held in open court when the youth/youth offender is present, and to be heard at any detention hearings and disposition.
- Upon request, to obtain information about the adjudication, disposition, imprisonment, criminal history, and future release from physical custody of the youth/youth offender.
- To refuse an interview, deposition, or other discovery request by the youth/youth offender or other person acting on behalf of the youth/youth offender.
- To receive prompt restitution from the adjudicated youth who caused the victim's loss or injury.
- To have a copy of a transcript of any court proceeding held in open court, if one is otherwise prepared.
- Upon request, to be consulted regarding plea negotiations involving any violent felony.
- To be informed of the above-listed rights as soon as practicable.
- To be reasonably protected from the youth/youth offender throughout the juvenile justice process.
- To have decisions by the court regarding the preadjudication release of a youth/youth offender based upon the principle of reasonable protection of the victim and the public, as well as the likelihood that the youth/youth offender will appear for adjudication.

6. In accordance with the rights provided in Article I, sections 42 and 43, of the Oregon Constitution, I request the following remedy:

7. I hereby request that the court grant an appropriate remedy or schedule a hearing to determine whether the victim's right(s) was violated.

Submitted this _____ day of _____, 20_____.

Victim, Prosecuting Attorney or Private Attorney
OSB No. _____

Note: You must file this claim with the court clerk's office.
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Case Name: _____
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Name

Street Address or PO Box (Contact address may be used)

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