

# Marsy's Law Legal Updates for Treatment Courts

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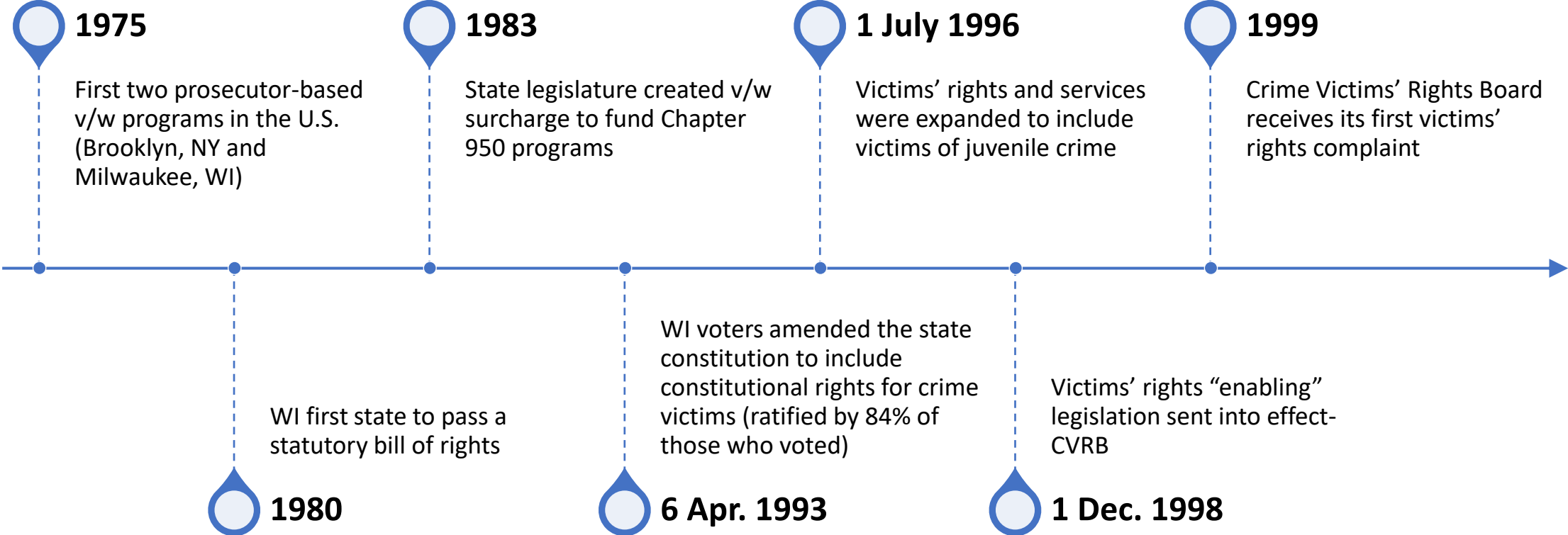
# Outline of Presentation

Provide	Provide background on victims' rights in Wisconsin
Familiarize	Familiarize audience with Marsy's Law
Discuss	Discuss the application of Marsy's Law to treatment court processes and procedures
Answer	Answer questions related to victims' rights application to treatment courts

## Presentation Caveats:

- Marsy's Law is new and interpretations are evolving
- CVRB, courts and legislature will provide direction on Marsy's Law
- Not providing legal advice, just best practice recommendations
- Focus is on treatment courts

# Victims' Rights History in Wisconsin



# Victim Rights' Enforcement Prior to Marsy's Law

- Informal Mediation Process
  - Make a complaint to OCVS staff
  - Attempt to resolve the complaint
  - Contact the subject of the complaint
- Closing letter
  - Do not determine if there has been a violation
  - Letter to victim and copy respondent
  - Advised of right to complain to CVRB

## Victim Rights' Enforcement Prior to Marsy's Law

- Crime Victim Rights Board
  - Five-member board appointed for four-year terms
  - Decisions and actions of the CVRB are not subject to review by the Attorney General
  - Review complaints filed by the victim
  - Conduct investigations in cases in which probable cause exists
  - Issue remedies for violations
  - Issue reports and recommendations concerning the provision of victims' rights and services

# What is Marsy's Law?



A nationwide effort to elevate crime victims' rights to a constitutional level equal to the accused in every state



Model constitutional amendment language that can be used as a starting point



Marsy's Law has already been passed in California (2008), Florida (2018), Georgia (2018), Illinois (2015), Nevada (2018), North Carolina (2018), North Dakota (2016), Ohio (2017), Oklahoma (2018), and South Dakota (2016)



Montana overturned; Kentucky ruled invalid (current efforts underway to pass again); Pennsylvania pending litigation

# What is Marsy's Law in Wisconsin?



Self-executing constitutional  
victim rights amendment



Passed twice in the same  
form



Ratified by the voters in WI



Effective date: May 4, 2020





When is a person  
considered a victim?



Rights “vest at the time  
of victimization”




Who is a victim?



# Definition of Victim

“Victim” means any of the following:


1. A person against whom an act is committed that would constitute a crime if committed by a competent adult.
  2. If the person is deceased or is physically or emotionally unable to exercise his or her rights under this section, the person's spouse, parent or legal guardian, sibling, child, person who resided with the deceased at the time of death, or other lawful representative.
  3. If the person under is a minor, the person's parent, legal guardian or custodian, or other lawful representative.
  4. If the person under is adjudicated incompetent, the person's legal guardian or other lawful representative.
- 



# Definition of Victim

“Victim” does not include the accused or a person who the court finds who not act in the best interests of a victim who is deceased, incompetent, a minor, or physically or emotionally unable to exercises his or her rights under this section.





What are the rights? How  
are they different than  
before?



To be treated with  
dignity, respect,  
courtesy, sensitivity, and  
fairness.

The image features a dark grey horizontal band across the center. Above and below this band are three overlapping semi-circles in shades of blue, creating a decorative border. The text "To privacy." is centered within the dark band in a white, sans-serif font.

To privacy.






To proceedings free from  
unreasonable delay.




To timely disposition of the  
case, free from unreasonable  
delay.



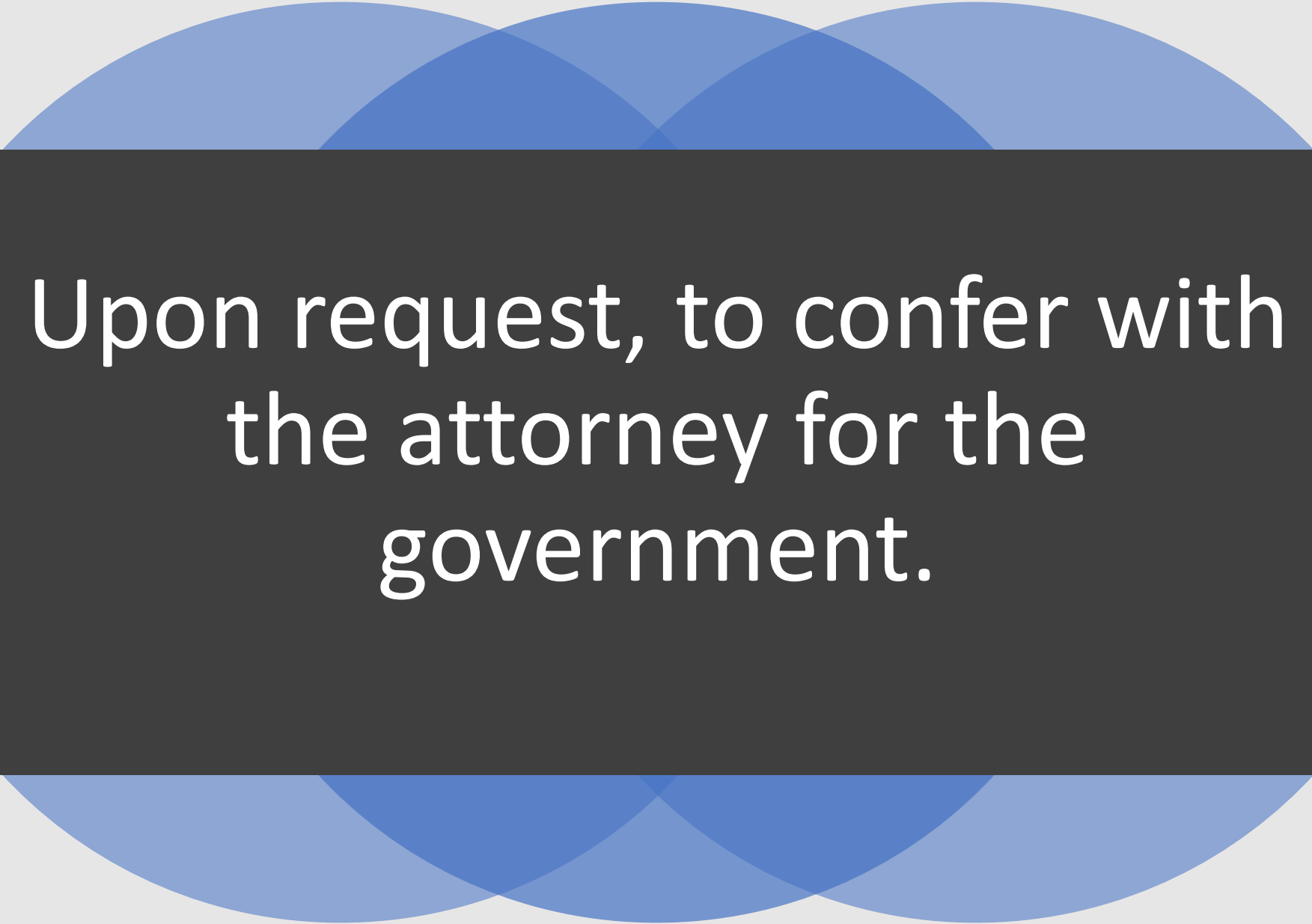
Upon request, to attend  
all proceedings involving  
the case.



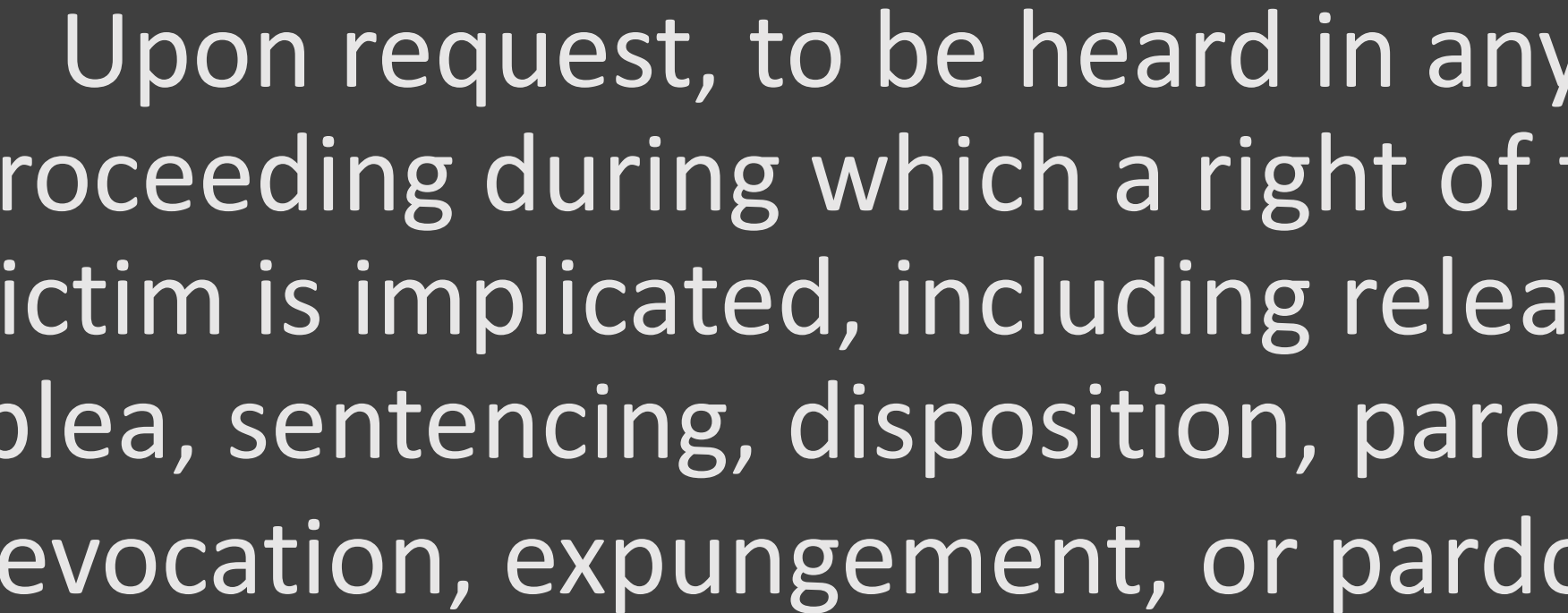
To reasonable protection from  
the accused throughout the  
criminal and juvenile justice  
process.



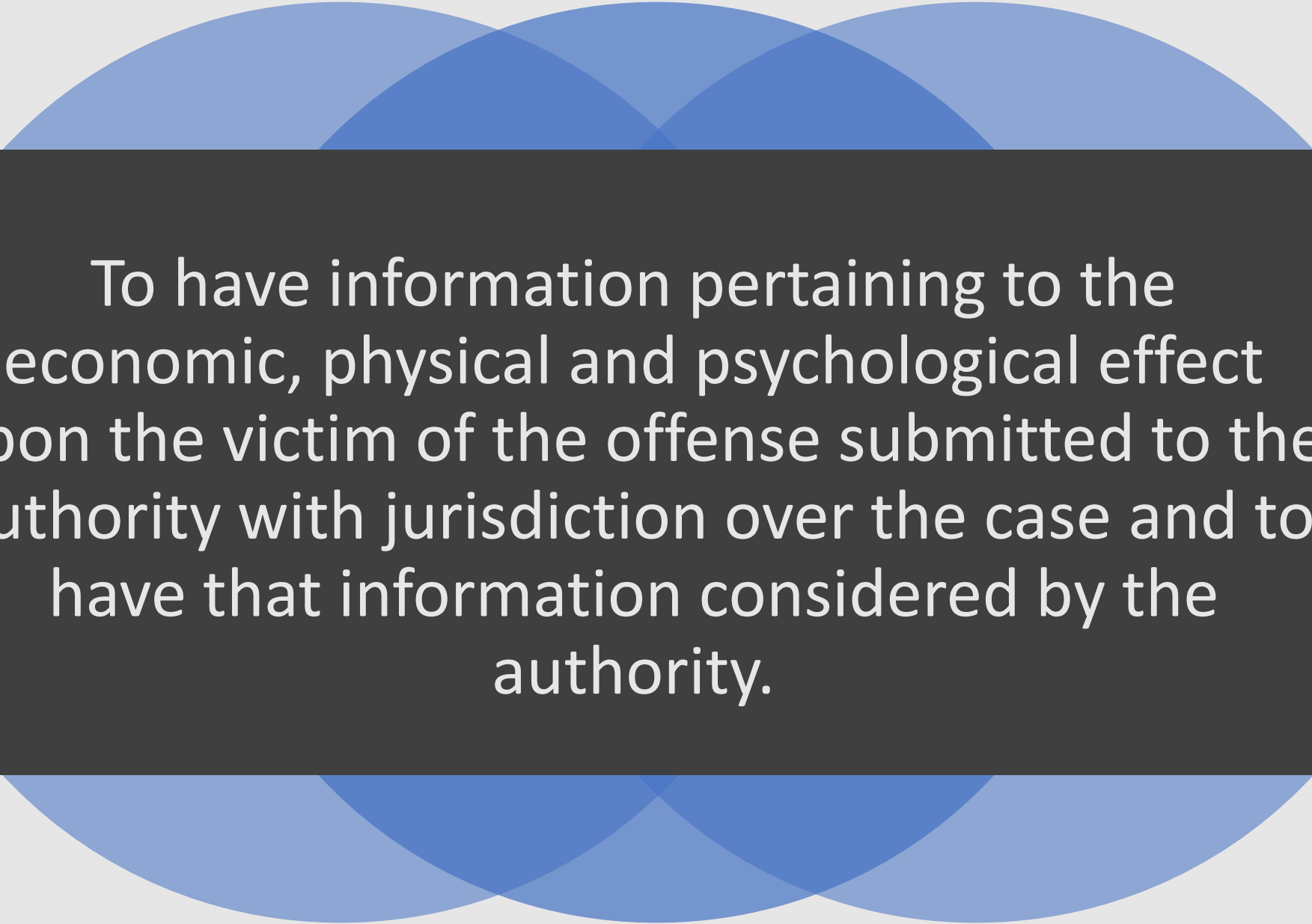
Upon request, to reasonable  
and timely notification of  
proceedings.



Upon request, to confer with  
the attorney for the  
government.




Upon request, to be heard in any proceeding during which a right of the victim is implicated, including release, plea, sentencing, disposition, parole, revocation, expungement, or pardon.



To have information pertaining to the economic, physical and psychological effect upon the victim of the offense submitted to the authority with jurisdiction over the case and to have that information considered by the authority.



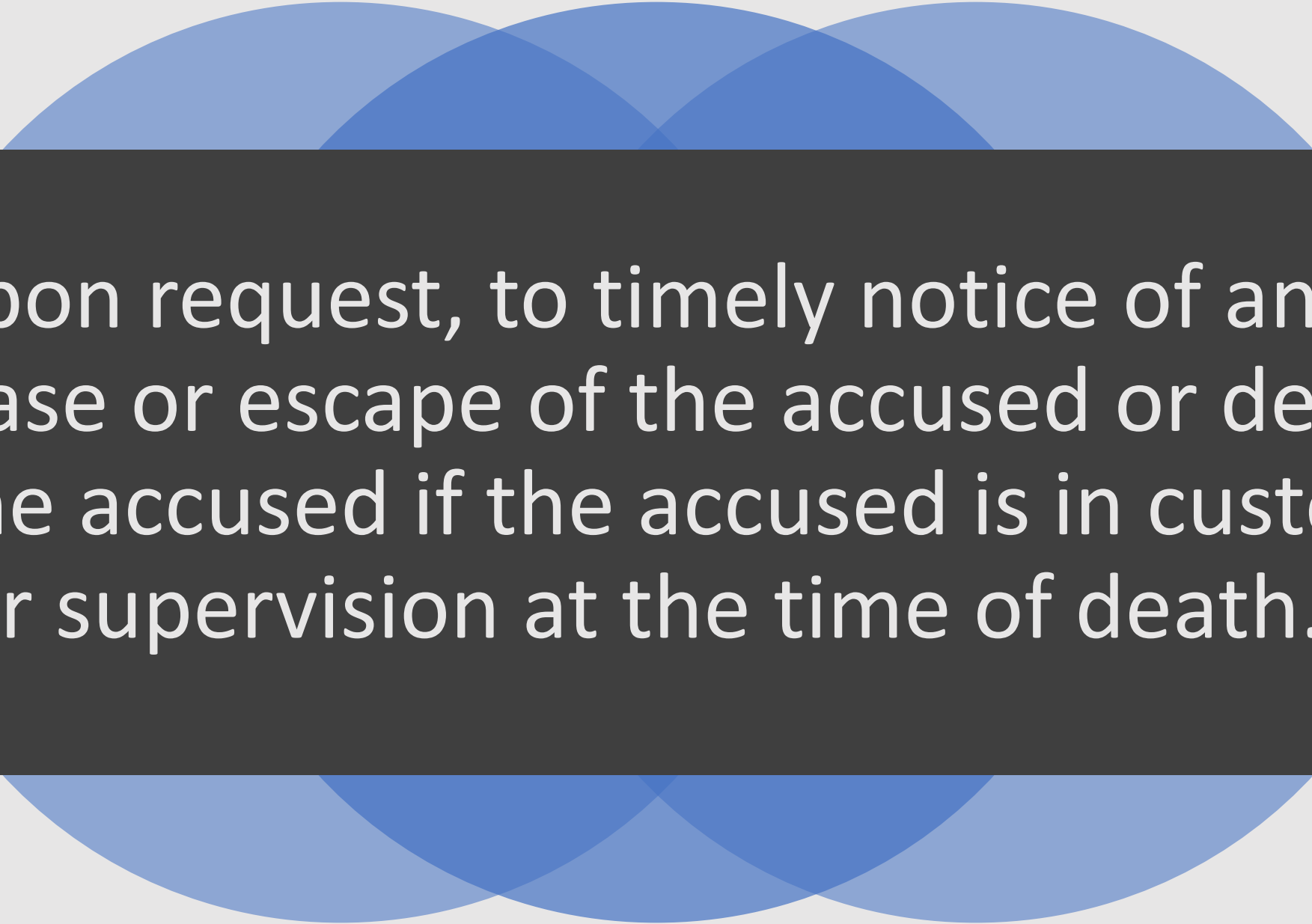


“When victims are not allowed to provide information to the court pursuant to their rights to do so, the court is deprived of potentially relevant information.”

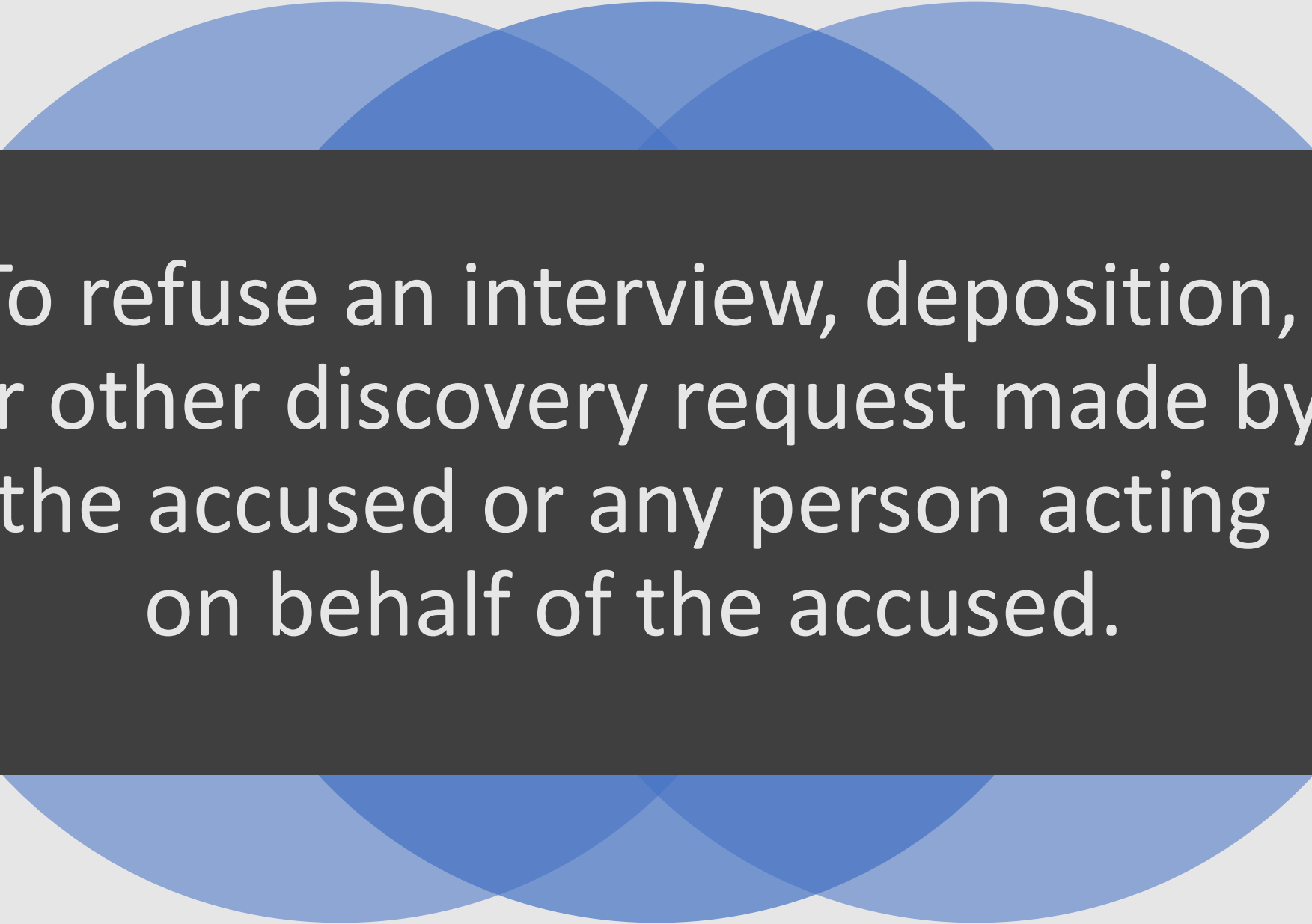
“The provision of victims’ statutory and constitutional rights can have a significant impact on a victim’s perceptions of, and satisfaction with, the criminal justice system. For some victims, the deprivation of a right exacerbates the feelings of helplessness he or she already feels as a result of the crime. It is in the best interest of the victim and the overall justice system that public officials make sincere and meaningful efforts to comply with their constitutional and statutory duties to victims of crime.”

- Wisconsin CVRB R & R, May 2014

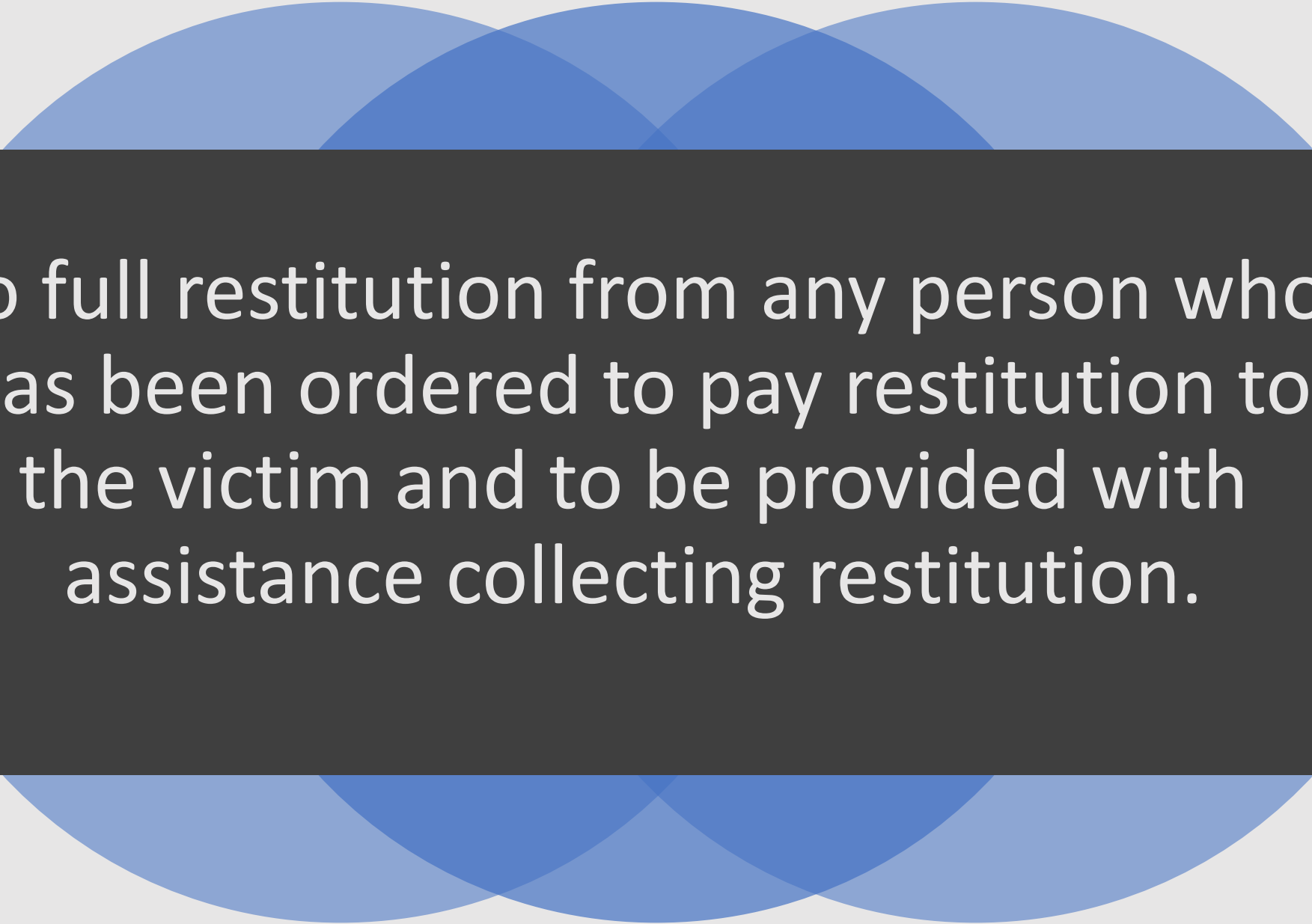




Upon request, to timely notice of any release or escape of the accused or death of the accused if the accused is in custody or supervision at the time of death.



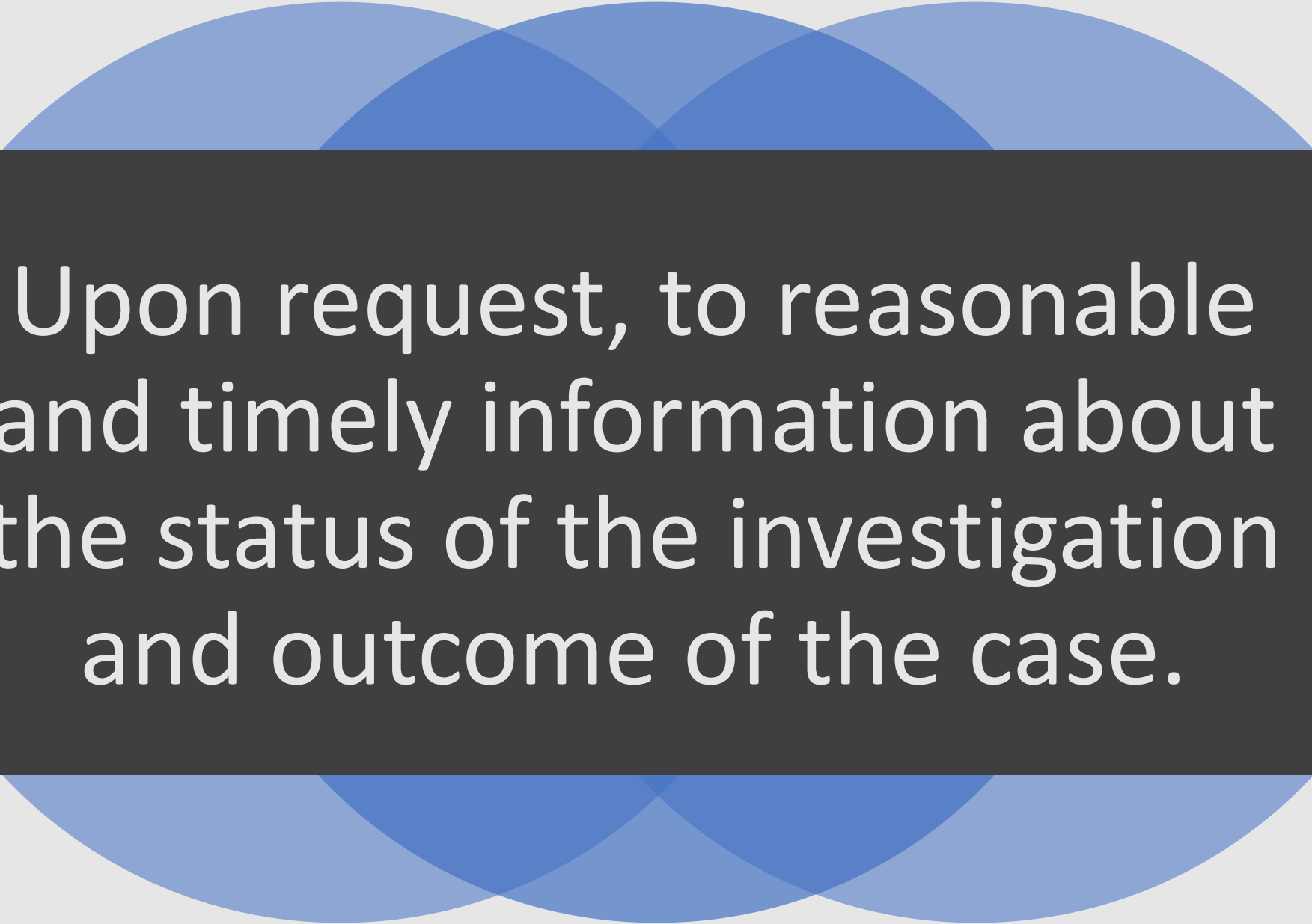
To refuse an interview, deposition,  
or other discovery request made by  
the accused or any person acting  
on behalf of the accused.



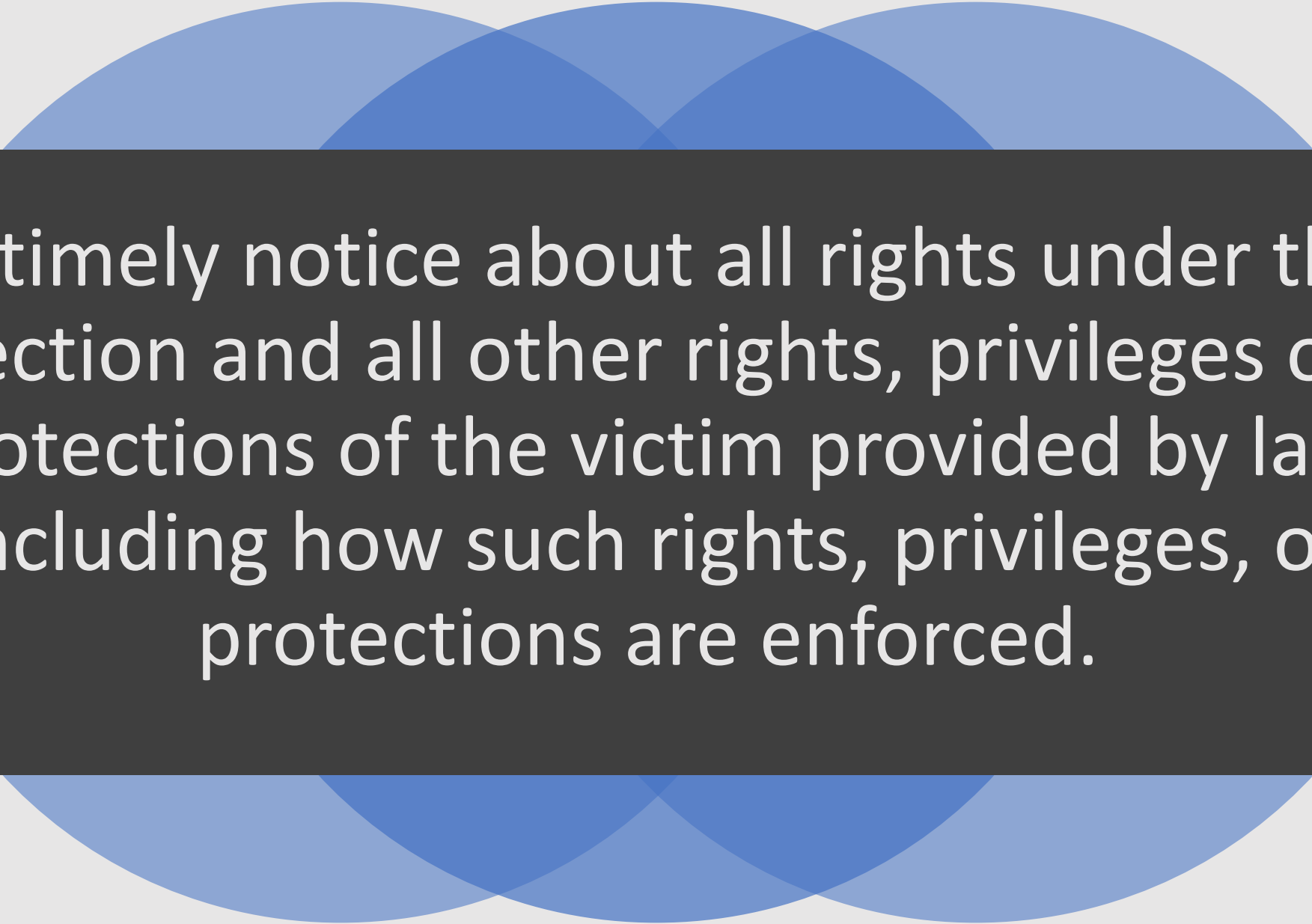
To full restitution from any person who has been ordered to pay restitution to the victim and to be provided with assistance collecting restitution.



To compensation as provided by law



Upon request, to reasonable and timely information about the status of the investigation and outcome of the case.




To timely notice about all rights under this section and all other rights, privileges or protections of the victim provided by law, including how such rights, privileges, or protections are enforced.

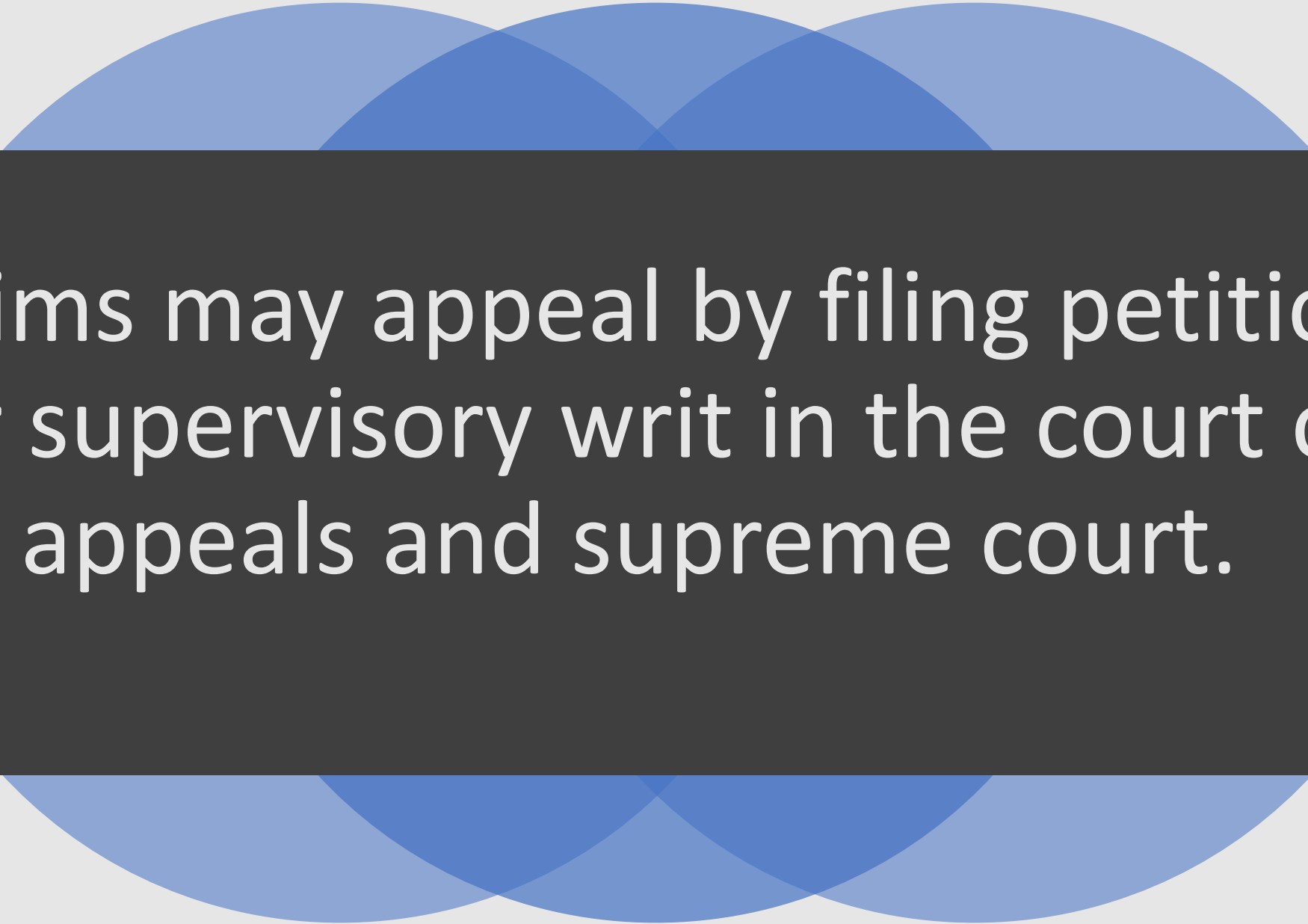


# Enforcement of Victims' Rights





A victim may seek enforcement in  
any circuit court or before any  
other authority of competent  
jurisdiction



Victims may appeal by filing petitions for supervisory writ in the court of appeals and supreme court.



# Questions?

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