

**University of Baltimore School of Law**

Spring 2020

**RIGHTS OF CRIME VICTIMS Seminar (Law 882/Section 512)**

Professor Russell P. Butler

301-423-7500; [rbutler@ubalt.edu](mailto:rbutler@ubalt.edu) and [rpbcbj@gmail.com](mailto:rpbcbj@gmail.com)

Mondays from 6:15 pm to 9:00 PM; January 13, 2020 to April 27, 2020

Tentative location: Law School (Room subject to change until first day of classes)

**Course Description:**

The legal arena for crime victims and their legal rights is expanding rapidly. These issues are barely ever covered in other courses. This area of the law is important to anyone who becomes a prosecutor, a criminal defense attorney, or a civil tort litigator. Topics include: constitutional and statutory rights; enforcement of rights after sentencing; domestic violence, battered spouse syndrome, and children's rights; institutions and procedures; civil causes of action; and privacy.

**Professor Butler's Office hours:**

By request on Monday by advanced appointment.

Phone #: 301-423-7500

Email: Once class starts - [rbutler@ubalt.edu](mailto:rbutler@ubalt.edu); Before class starts – [rpbcbj@gmail.com](mailto:rpbcbj@gmail.com)

**Course Materials:**

Required Textbook: Victims in Criminal Procedure, Fourth Edition by Beloof, Cassell, Garvin, and Twist. [Abbreviated below as VCP]

Course Web Page: This course has a LEXIS webpage (Webcourse) that supplements the text and has other materials. Use of the Webcourse is mandatory. You are responsible for self-enrolling in the LEXIS page This syllabus, announcements, the class assignments, helpful information, PowerPoints, and other class materials will be available. You must check the Webcourse at least weekly. Students should use materials on the Webcourse as professor has redacted cases. If you are not enrolled in the Webcourse, you should promptly contact the professor by email and phone prior to the first day of class.

Recommended materials: Additional recommended materials will often be listed for class assignments. Reviewing this information will be helpful to enhance a student's understanding for class and as reference material in the future practice of law.

### **Computers:**

Students may use a laptop but only for class related purposes including access to materials on the Webcourse. You are recommended to bring a laptop to each class.

### **Course Objectives and Outcomes:**

This course examines the developing role of crime victims in American jurisprudence. Students will obtain knowledge of the justice system from the perspective of the crime victim and how the participation of the victim is impacting the justice system.

### **Grading:**

The law school catalog establishes the following grading system: A +, A, A-, B+, B, B-, C+, C, C-, D+, D, D-, and F. The grade in this course is composed of the following:

1. Interview assignment	-	15 %
3. Research point headers outline	-	5 %
3. Research Paper (brief)	-	50 %
4. Oral argument of brief	-	10 %
5. Participation as judge	-	5 %
6. Other class participation	-	15 %

The grade is subject to the mandatory grading range for upper level courses.

### **Description of Assignments/Participation/Grades:**

1. **Interview assignment:** Students will interview a victim or victim's representative. Afterwards, the student will prepare a written victim impact statement and provide both an oral victim impact statement as directed and discuss impressions regarding the victim's experience in the justice system (15 % of grade)
2. **Research point headers outline:** Students will prepare a 4 to 8 page typed point headers outline of their research paper using a point header format and shall include citations to authority. (5 % of grade)
3. **Research paper:** Students will prepare a minimum 25-page research paper (brief) of law review caliber plus endnotes of approximately 6 to 10 pages. The brief should not exceed 35 pages including endnotes. (50 % of grade)

4. **Oral argument:** Students will present an “oral argument” as counsel for the victim on the paper topic to the class. The argument will include a designated time advocating counsel’s position without interruption. A brief recitation of critical facts and procedure shall be provided so that other students in the class will understand the case. Advocating is not to be confused with reading and reading is disfavored. Counsel will then field questions for the remainder of the allocated time. (10 % of grade)
5. **Participation as judge:** One student will be assigned as an “appellate judge” of the brief of another student. The judge will prepare in writing at least two thought-provoking questions, which the judge will inquire of the presenter. If time allows, the professor and other students may also ask questions of appellate counsel after the judge asks two questions of victim’s counsel. (5 % of grade)
6. **Participation:** Student should have read assigned material and be prepared to discuss material in class. You are expected to complete all reading assignments and to consistently participate in class discussions in order to demonstrate that you have read and reflected on the issues raised in the assignment. Students may also be assigned individual material to present to entire class. This class is a seminar class and participation is expected. Not attending class will adversely impact the participation score of your grade. (15 % of grade)

### **Course Expectations:**

American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work for each credit earned in a class, or an equivalent amount of work for other academic activities, such as simulations, externships, clinical supervision, co-curricular activities, and other academic work leading to the award of credit hours. As this is a three-credit class and the class will meet one time per week, students are expected to prepare six hours before each class.

You are expected to complete all reading assignments before class and to participate consistently in class discussion to demonstrate that you have read and reflected on the issues raised in the assignment. As this is a seminar class, students should expect to be called upon multiple times to discuss the required readings as well as to voluntarily participate in class discussions without being prompted.

### **Attendance:**

Class attendance is a primary obligation of each student whose right to continued enrollment in the course and is conditioned upon a record of attendance satisfactory to the professor. A student who exceeds the maximum allowed absences (generally 20% of class sessions) as illustrated below may be compelled to withdraw from the course, or

may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). This policy is consistent with American Bar Association Standards for Law Schools.

Other than for religious holidays in accordance with school policy, students are expected to attend the entire class. Students should notify the professor within the first week of school of any absence for any religious holiday. The right to continued enrollment in the course and to take the examination is conditional upon a record of attendance that is satisfactory to the professor. **For more information about attendance, please see the student handbook - <https://tinyurl.com/UBStudentHandbook>.** If you may be absent from a class, you are required to speak to the professor in advance. Attendance will be taken at the beginning of each class. A student who is present but unprepared for class may be treated as absent. Being absent from class will affect your grade. Students are not excused from any part of a class for reasons such as work, conflicts with other classes, other professor's study sessions, interviews, etc. and they should not make such a request.

Maximum allowed absences are as follows:

Credit Hours	Meetings Per Week	
	1	
3	2 absences	

There are no "unexcused" absences. Classes missed due to religious holidays, sicknesses, etc. are included in the maximum allowed absences. You can read more about this policy at in the Student Handbook.

**Class Cancellation:**

If the professor must cancel a class, notices will be sent to students via email, through the Webcourse and/or posted on the classroom door.

If there is inclement weather, students should visit the University of Baltimore web page or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should presume that classes are running on the normal schedule.

**Academic Integrity:**

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of

unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at [https://law.ubalt.edu/academics/policiesandprocedures/honor\\_code/index.cfm](https://law.ubalt.edu/academics/policiesandprocedures/honor_code/index.cfm).

### **Course Evaluations:**

It is a requirement of this course that students complete a course evaluation. The evaluation will be available later in the semester and is entirely anonymous. Faculty members will not have access to the feedback provided on course evaluations until after all grades are submitted.

### **Title IX Sexual Misconduct and Nondiscrimination Policy:**

The University of Baltimore's Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

### **Disability Policy:**

If you are a student with a documented disability who requires an accommodation for academic programs, exams, or access to the University's facilities, please contact the Office of Academic Affairs, at [ublacadaff@ubalt.edu](mailto:ublacadaff@ubalt.edu) or (410) 837-4468.

### **Assigned Materials:**

1. The dates and listing of assigned readings are tentative. Classes may be adjusted for reasons include availability of guest presenters.
2. The course has significant reading. Since the class meets only once a week, the reading covers the amount of reading for a class that meet twice per week. To assist in reducing the amount of reading, **cases are redacted by the professor and uploaded to the Webcourse on a weekly basis. Use the redacted materials on the Webcourse.**
3. You are expected to complete all reading and other assignments and to consistently participate in class discussion in order to demonstrate that you have read and reflected on the issues raised in the materials on the syllabus and Webcourse.

PowerPoint presentations are created by the professor. After the completion of the material for a date, the PowerPoints will be uploaded to the Webcourse.

All assignments will be time stamped when uploaded by the Webcourse. The date of the timestamp should be **prior to** the start of class when the assignment is due.

## **Class # 1: January 13, 2020**

### ***The Roles of Crime Victims in the Criminal Justice System***

1. VCP, 3-32; 36-43; 18 U.S.C. § 3771(38); 188-195 *Linda R. S.* (188); 574-575; *Harrison* (574)
2. Md. Dec. of R. art. 47
3. Md. Rule 1-326

\* Use cases in Lexis-Nexis Webcourse as they have been redacted for class use.

Victims in Criminal Procedure, Third Edition by Beloof, Cassell, and Twist.  
(VCP)

### ***Who is a Victim?***

1. VCP, 45-49; 54-58; *Hunter* (54); 69-72; *Beck* (69); 78-81; *Bryant* (79)
2. *State v. Roscoe*, 185 Ariz. 68 (1996)
3. *In re Doe*, 264 Fed. Appx. 260 (4th Cir. 2007)
4. *United States v. Battista*, 575 F.3d 226 (2d Cir. 2009)
5. *In re Tyrell A.*, 442 Md. 354 (2015)

Background material -

1. Brief History of Modern Victims' Rights -  
<https://tinyurl.com/USCrimeVictimHistory>
2. Brief History of Maryland Victims' Rights –  
<https://tinyurl.com/MDCrimeVictimHistory>

## **Class # 2: January 27, 2020**

### **Notice**

1. VCP 721-727; *Hance* (721)
2. *In re Simons*, 567 F.3d 800 (6th Cir. 2009)
3. *United States v. Keifer*, 2009 U.S. Dist. LEXIS 15893 (S.D. Ohio Feb. 18, 2009)
4. Md. CRIMINAL PROCEDURE Code Ann. § 11-104

### ***Victim Coordinator***

1. *Newell v. Runnels*, 407 Md. 578 (2009)

### ***Investigation and Charging***

1. VCP, 109-114; 139-141; 145; 164; *Bales* (164); 206; 202-206; *Brack* (206)
2. *Lane v. Correll*, 434 F.2d 598 (5th Cir. 1970)
3. *In re Request for Appointment of Special Prosecutor by Hunting*, 930 P.2d 904 (1997)
4. *McCain v. Dougherty*, 2007 Pa. Dist. & Cnty. Dec. LEXIS 39 (2007)

Recommended material – Maryland charging process

1. <https://tinyurl.com/MDCharging>

## **Class # 3: February 3, 2020**

### ***Presence***

1. VCP, 532-541; *Mikhel* (534), *Martinez* (536), *Okun* (538); 548-550 – *Crowe* (548)

Recommended material – Maryland statutes and rules

1. Md. CRIMINAL PROCEDURE Code Ann. § 11-102
2. Md. CRIMINAL PROCEDURE Code Ann. § 11-302
3. Md. COURTS AND JUDICIAL PROCEEDINGS Code Ann. § 3-8A-13
4. Md. Rule 5-615

### ***Heard***

1. VCP, 599-618 – *Booth* (605), *Payne* (610)
2. *Cianos v. State*, 338 Md. 406 (1995)
3. *Ingoglia v. State*, 102 Md. App. 659 (1995)
4. *In re Brock*, 262 Fed. Appx. 510 (4th Cir. 2008)
5. *Pann v. Warren*, 2010 U.S. Dist. LEXIS 72234 (E.D. Mich. July 19, 2010)
6. *Lopez v. State*, 458 Md. 164 (2018)

Recommended material - Maryland statutes and rules

1. Md. CRIMINAL PROCEDURE Code Ann. § 11-402
2. Md. CRIMINAL PROCEDURE Code Ann. § 11-403
3. Md. COURTS AND JUDICIAL PROCEEDINGS Code Ann. § 3-8A-19
4. Md. Rule 4-342

**Students will receive in class their interview assignments, which are due in Class # 7.**

### **Class # 4: - February 10, 2020**

*Silver Lining in Epstein Saga: New Focus on Victims' Rights*

<https://tinyurl.com/EpsteinArticle>

*Dispositions/Pleas*

1. VCP, 412-414; *Heaton* (412); 419-425; *McKenzie* (424), 428-447; *Bean* (429), *Stevens* (433); *Dean* (444)
2. *Doe v. United States*, 950 F. Supp. 2d 1262 (S.D. Fla. June 18, 2013)
3. *Doe v. United States*, 749 F.3d 999 (11th Cir. Fla. 2014)

Recommended material – Maryland Rules

1. Md. Rule 4-243
2. Md. Rule 4-247
3. Md. Rule 4-248

*Pre-Trial*

1. VCP, 241- *McVeigh* (241), *Timmendequas* (247), 528-531 – *Dunkin* (528)
2. *State ex rel. Brandenburg v. Blackmer*, 110 P.3d 66 (N.M. 2005)

*Trial*

1. VCP, 552-554 – *Schaffer* (552); 561-563; *Musladin*, (561)

**Students will receive in class their research paper writing assignments, which are due in class on # 14.**



## **Class # 5: February 17, 2020**

### ***E.H. v. Slayton (Pending Arizona Supreme Court case)***

1. Arizona Supreme Court Oral Argument Case Summary – <https://tinyurl.com/EHSummary>
2. Oral Argument of November 20, 2019 – <https://tinyurl.com/ESArgument>

### ***Restitution***

1. VCP, 607-609
2. *Goff v. State*, 387 Md. 327 (2005)
3. *United States v. McPherson*, 2010 U.S. Dist. LEXIS 64143 (S.D. Ohio Jan. 29, 2010)
4. *Lafontant v. State*, 197 Md. App. 217 (2011)
5. *In re Cody H.*, 452 Md. 169 (2017)
6. *Ingram v. State*, 461 Md. 650 (2018)
7. *In re G.R.*, 463 Md. 207 (2019)
8. *Hester v. United States*, 139 S. Ct. 509 (2019)
9. *In re Brown*, 932 F.3d 162 (4th Cir. 2019)

### Recommended material - Restitution statutes

1. Md. CRIMINAL PROCEDURE Code Ann. § 11-601 *et. seq.*
2. 18 U.S.C. §§ 3663, 3663A, and 3664.

### ***Civil Litigation***

1. *Parker v. Hamilton*, 453 Md. 127 (2017)

## **Class # 6: February 24, 2020**

### ***Compensation***

1. *Opert v. Crim. Injuries Comp. Bd.*, 403 Md. 587 (2008)
2. *Neal v. Crim. Injuries Comp. Bd.*, 191 Md. App. 664 (2010)
3. *Marks v. Crim. Injuries Comp. Bd.*, 196 Md. App. 37 (2010)

### Recommended material – Compensation statutes

1. Md. CRIMINAL PROCEDURE Code Ann. § 11-801 *et. seq.*

### ***Remedies and Appellate Court Review***

1. VCP, 701-719 –*Casey* (704), *Kenna* (714); 763-769 - *McVeigh* (763)
2. *Lopez-Sanchez v. State*, 388 Md. 214 (2005)
3. *Hoile v. State*, 404 Md. 591 (2008)
4. *State v. Barrett*, 350 Ore. 390 (2011)
5. *United States v. Laraneta*, 700 F.3d 983 (7th Cir. 2012)
6. *Griffin v. Lindsey*, 444 Md. 278 (2015)
7. Md. CRIMINAL PROCEDURE Code Ann. § 11-103
8. Md. Rule 8-111
9. *In Re: Courtney Wild* (Pending case from the United States Court of Appeals for the 11<sup>th</sup> Circuit) (Material from oral argument scheduled for January 16, 2020 will be provided when available)

### **Class # 7: March 2, 2020**

Victim impact statement (*VIS*) *Presentations*

**Students will present a five-minute VIS as counsel for the victim based upon their interview. Students will also upload before class and turned in to the professor at the beginning of class their written VIS based upon the impact of the crime. Students must also be prepared to discuss the impact of participation or lack of participation by victims in the criminal justice system.**

- a. Additional material is provided to assist in completing these assignments. See material on the Webcourse.

Guest Speaker: TBD

### **Class # 8: March 9, 2020**

**Point Heading Outlines for research paper will be uploaded before class and turned in to the professor at the beginning of class.**

#### ***Protection***

1. VCP, 257-259; 301-308; *Mullen* (302)
2. *Coleman v. State*, 321 Md. 586 (1991)
3. Md. Rules 4-262 and 4-263
4. *United States v. Epstein*, 2019 U.S. Dist. LEXIS 120289 (S.D.N.Y. July 18, 2019)

Recommended material – Maryland statute and rules

1. Md. CRIMINAL PROCEDURE Code Ann. § 5-201

2. Md. CRIMINAL PROCEDURE Code Ann. § 11-205
3. Md. CRIMINAL PROCEDURE Code Ann. § 11-301
4. Md. CRIMINAL PROCEDURE Code Ann. § 11-904
5. Md. Rules 16-908, 16-910; and 16-912

***Domestic Violence***

1. VCP, 473-475; *Black* (473); 489-493; *Castle Rock* (489)
2. Md. COURTS AND JUDICIAL PROCEEDINGS Code Ann. § 9-106 (Spousal privilege)
3. Md. COURTS AND JUDICIAL PROCEEDINGS Code Ann. § 10-916 (Battered spouse syndrome)

Recommended material – Maryland statutes and article

1. Md. COURTS AND JUDICIAL PROCEEDINGS Code Ann. § 3-8A-19.1 *et. seq.*
2. Md. COURTS AND JUDICIAL PROCEEDINGS Code Ann. § 3-1501 *et. seq.*
3. Md. FAMILY LAW Code Ann. § 4-504 *et. seq.*
4. <https://tinyurl.com/ACLUHumanRightsDV>

***Children***

1. VCP, 554-560; *Spence* (555);
2. *State v. Tarrago*, 800 So. 2d 300 (Fla. Dist. Ct. App., 2001)
3. *State ex rel. Romley v. Dairman*, 208 Ariz. 484 (2004)

Recommended material – Statutes, rules, and ABA policy

1. Md. Rule 5-615.
2. 18 U.S.C. § 3509
3. <https://tinyurl.com/ABACHildren>
4. Md. Rule 1-202 (1) (Person under disability)
5. Md. CRIMINAL PROCEDURE Code Ann. § 11-303
6. Md. CRIMINAL PROCEDURE Code Ann. § 11-304

**Spring Break – No Class: March 16, 2020**

## Class # 9: March 23, 2020

### *Sexual Assault*

1. VCP, 353-354; 363-364; 775-777; *Doe* (775)
2. *White v. State*, 324 Md. 626 (1991)
3. *Victim v. Owens*, 2011 Ariz. App. Unpub. LEXIS 732 (Ariz. Ct. App. 2011)
4. BPD's Handling of Sexual Assault Investigations Raises Serious Concerns of Gender-Biased Policing, Department of Justice Investigation of The Baltimore City Police Department, August 10, 2016. Pages 122 – 127;  
<https://tinyurl.com/DOJBaltimore>

Recommended material – Maryland statutes

1. Md. CRIMINAL LAW Code Ann. § 3-319
2. Md. CRIMINAL LAW Code Ann. § 3-320

### *Privacy*

1. VCP, 293-301; *Ramirez* (293); *Zimmerman* (299); 364-373; *Globe Newspaper* (364); 378-399; *Florida Star* (378), *Bryant* (389),
2. *Evans v. State*, 304 Md. 487 (1985)
3. *State v. Gonzales*, 125 P.3d 878 (Utah 2005)
4. *State v. WBAL-TV*, 187 Md. App. 135 (2009)
5. *United States v. Shrader*, 716 F. Supp. 2d 464 (S.D. W. Va. 2010)
6. *State v. Romero*, 2010 N.M. App. Unpub. LEXIS 133 (N.M. Ct. App. Mar. 25, 2010)
7. *State v. Johnson*, 440 Md. 228 (2014)

### *Rights of Victims in Military Cases*

1. 10 USC § 806b Art. 6b.
2. *LRM v. Kastenberg*, 72 M.J. 364 (2013)
3. *E. V. v. Robinson*, 906 F.3d 1082 (9th Cir. 2018)

## Class # 10: March 30, 2020

**Individual meetings with Professor Butler will be held to discuss outlines of research papers in lieu of regular class meeting.**

## Class # 11: April 6, 2020

**Draft research papers (2 copies) will be due and turned in to the professor at the beginning of class. Copies will also be uploaded to the Webcourse before class.**

### *Lawyer Representing Crime Victim Held in Contempt, Shining Light on Little-Known Legal Role*

<https://tinyurl.com/AttyContempt>

### *Ethics Case Against DA Keeps Spotlight on Victim Rights*

<https://tinyurl.com/DAEthics>

#### *Ethics*

1. VCP, 280-283 - Michael M. (281), 731-747 - *Judicial Qualifications* (732); *O'Neill* (734); *Telep* (736); *Romley* (741)
2. *United States v. Turner*, 367 F. Supp. 2d 319 (D.N.Y. 2005)
3. Md. Rule 18-102.6. Ensuring the Right to Be Heard (ABA RULE 2.6)
4. Md. Rule 19-304.2. Communications with Persons Represented by an Attorney (4.2)
5. Md Rule 19-304.3. Dealing with Unrepresented Person (4.3)
6. Md. Rule 19-304.4. Respect for Rights of Third Persons (4.4)
7. *People v. Quiroz*, 15 Misc. 3d 1128A (N.Y. Misc. 2007)
8. *United States v. Aleo*, 2010 U.S. Dist. LEXIS 42858 (E.D. Mich. May 3, 2010)
9. *Atty. Griev. Comm'n of Md. v. Smith*, 442 Md. 14 (2015)

#### Fairness/Proceedings Free from Unreasonable Delay

1. VCP 230-238; *Biggs I* (230); *Biggs II* (232); *Hagen* 235
2. *State ex rel. K.P.*, 311 N.J. Super. 123 (N.J. Super. Ct., 1997)
3. *State v. Korsen*, 111 P.3d 130 (Idaho 2005)
4. *State v. Aguirre*, 229 P.3d 669 (Wash. 2010)
5. *Carter v. Bigelow*, 869 F. Supp. 2d 1322 (D. Utah 2011) (order and reconsideration)

## **Class # 12: April 13, 2020**

### *Class Presentations*

**Every student will upload before class and turned in at the beginning of the class at least 2 written thought-provoking questions to the professor on the research paper for which they are serving as a judge.**

**Students will present an oral argument of the student's draft research paper.**

## **Class # 13: April 20, 2020**

### *Class Presentations*

**Students will present an oral argument of the student's draft research paper.**

## **Class # 14: April 27, 2020**

**Final research papers are due and will be uploaded before class and turned in to the professor at the beginning of class.**

### *The Future*

1. VCP, 787-825
2. Md Rule 4-345
3. *State v. Malvo*, 2017 WL 3579711 (2014)
4. *State v. Reichert*, 2014 WL 10791531 (2014)

### *Victim Offender Mediation*

The Redemption Project - <https://tinyurl.com/VictimMediation>