

Crime Victim Procedures and Information

Felony Cases



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What happens after a crime is reported?

If the suspect is not arrested immediately, the officer involved will make a written report regarding the incident. The report will be reviewed by a commanding officer and presented back to the reporting officer. At this time, the report is either sent to the prosecuting attorney's office for prosecution or is given to an investigator for further evidence. This process may take 2 to 3 weeks. For that reason, if you have any questions you will need to contact the investigating officer until the report is received in this office. If you receive or remember additional information pertaining to the incident, you will need to contact the officer so a supplemental report can be filed.

What happens IF a suspect is arrested?

If a suspect is arrested, the officer will take him/her into custody for a 24 hour hold. During the 24 hours, the officer will provide a brief report regarding the crime to the prosecutor. The prosecutor will then review the report and determine if criminal charges should be filed. The appropriate paperwork will be prepared and signed by the prosecutor. Then a judge decides whether a warrant should be issued for the person's arrest and decides the bond amount. This must be done within the 24 hours. Even if the suspect is released, the Prosecutor has three years to file a felony charge.

What is the Prosecutor's Job?

A crime committed against a person violates state law and thus is a crime against the state. The prosecuting attorney in the county where the crime occurred is the attorney who handles the case. In our country a person is presumed innocent until proven guilty. The prosecutor has the burden of proving that the defendant committed the crime.

Before charges can be filed, the prosecutor must determine from the report if there is enough evidence to prove that a crime was committed.

The prosecuting attorney's job is to represent the State, although he/she will take into consideration the victim's thoughts and opinions. It is important to realize that he/she is not the victim's personal attorney.

COURT PROCESS

Charge-Warrant/Summons: Once the prosecutor determines charges should be filed, he/she will go to the judge to obtain an arrest warrant or a summons. A warrant will allow law enforcement officers to arrest the defendant. A summons orders the defendant to come to court on a certain date. If he fails to appear a warrant will be issued. Once charges are filed, the suspect becomes the defendant in the case.

Associate Court Arraignment: The first hearing is referred to as the arraignment. At this hearing, the associate judge will formally read the charge and advise the defendant of his/her rights. The arraignment can be waived by the defendant's attorney. After the arraignment, the judge will set the case for counsel status review, disposition hearing or preliminary hearing.

Counsel Status Review: The defendant has the right to obtain an attorney. At this hearing, an attorney must appear on behalf of the defendant or the attorney must file paperwork informing the court that he/she is representing the defendant.

Disposition Hearing: If the prosecutor and the defense attorney can determine a reasonable plea agreement, the case could be resolved at this hearing. The case may be set for Circuit Court Arraignment to finalize the plea. This hearing was established to allow the system to move more swiftly. Any plea agreement made would be based on the evidence in the case and the information provided in the victim impact statement. Agreements could include jail, probation, restitution, fines, treatment, counseling, community service, etc.

Preliminary Hearing: Testimony is taken under oath and all victims and witnesses that were subpoenaed MUST appear. If you receive a subpoena, come to the prosecutor's office to check-in before court. Someone from our office will then escort you to the appropriate courtroom or to a private waiting room. At this hearing, the prosecutor must only establish that 1) a crime was committed in Camden County; and 2) probable cause exists to believe that the defendant committed the crime. If the judge or grand jury decides that there is probable cause that a crime was committed and that the defendant most likely committed the crime, the case will be sent to the circuit court. The preliminary hearing can be waived by the defense attorney. If it is waived, the case will go directly to the circuit court level without the necessity of testimony.

Circuit Court: All felony charges must go to the circuit court level before any plea offers or agreements may be accepted. When the case is moved to this level, a circuit judge is assigned.

Motions, Endorsements and Plea Agreements: Once the case is at the circuit level, the defense attorney and the prosecutor may file motions, plea agreements and endorsements. Common **motions** that are filed by the defense are change of venue and change of judge. A change of venue is a request to have the case heard in another county. The prosecutor and judge will remain the same but all hearings will be held in a different county and the jury would be chosen from that county's residents. **Endorsements** such as endorsing additional witnesses or additional evidence may also be filed. A **plea agreement** can be made at any time before the trial verdict. This is where the defendant will agree to plead guilty under certain terms and conditions. Plea agreements are a means to arrive at a reasonable disposition without the necessity of a jury trial.

Circuit Court Arraignment: At this hearing, the circuit judge will formally read the charge and advise the defendant of his/her rights. The defendant must enter a plea at this hearing. If the defendant pleads guilty, sentencing will take place. If the defendant pleads not guilty, the case will be set for trial setting.

Trial Setting: At the trial setting, the judge will set the date for the jury trial. Jury trials are usually set approximately four to six months from the trial setting date.

Pre-Trial Hearing: This is where the judge, defense attorney and the prosecutor meet to discuss any motions and to finalize any details before the trial.

Jury Trial: Both the prosecutor and defense attorney must present their case to the jury. Testimony is taken under oath and all victims and witnesses that were subpoenaed MUST appear. The jury will review the evidence that was heard and make a decision of guilty or not guilty. All the jurors must agree on the guilty or not guilty decision or it is considered a "hung jury" and the trial would have to be held again. If found guilty, sentencing may occur immediately by the jury, or at a later date by the judge. If a jail/prison sentence is ordered the defendant immediately is taken into custody. If the defendant is found not guilty, he/she is released of all charges.

Sentencing: For each crime, the law specifies a range of punishment. If the jury recommends a sentence for the defendant, the judge cannot increase the punishment but can reduce it. In some cases where the defendant has prior criminal convictions, only the judge can determine the sentence. In certain serious criminal cases, the victim has the right to make a statement to the court regarding how the crime has affected their life. This is called a victim impact statement.

Felony Maximum Punishments:

Class A – 10-30 years or life without parole

Class B – 5-15 years

Class C – 3-10 years (*or up to a \$10,000 fine*)

Class D – 1 day - 7 years (*or up to a \$10,000 fine*)

Class E – 1 day - 4 years (*or up to a \$10,000 fine*)

Appeals: Following the sentencing the defense may appeal the decision to a state appellate court which is the Missouri Court of Appeals. The Attorney General represents the state in the appellate court; the prosecutor is no longer involved. Any victim wanting to be informed of the appellate procedure and case status must make a request in writing to the Missouri Attorney General's Office.

COMMON QUESTIONS

What is a summons?

A summons is a court document notifying the accused of the charges against him/her and orders that person to appear in Court on a certain date.

What is a subpoena?

A subpoena is an official court order requiring someone to appear at the time and place specified, to testify or to produce evidence. Failure to appear constitutes contempt of court.

What if I change my mind about prosecuting or testifying?

A crime committed against any person is a crime against the state. Our community and each of us as individuals deserve protection against criminal wrong-doers. For this reason, the court can compel testimony of a victim or witness to a crime. A great deal of costly work proceeds and would be wasted if the victim does not testify. The loss of a case because a victim or witness drops out, is a tragedy. Should you have any reluctance about testifying in a case, please contact our office. We will try to help with any problems, doubts or questions you may have.

What if someone threatens me to drop the charges?

If anyone has threatened you in connection with the case, he/she may have committed a new crime. Contact your local law enforcement agency immediately and report the threat. Advise the officer that you are a victim/witness on a case.

What if the defendant's attorney contacts me about the case?

You may discuss the case, if you wish, but you have no legal obligation to do so. If you agree to discuss the case with the defendant's attorney, please let this office know. You may also request that a Prosecutor be present when you speak with them.

Are witnesses permitted to be in the courtroom before and after testifying?

As a witness, you may watch the proceedings unless you are excluded from the courtroom by the judge. In any event, witnesses should not discuss their testimony with each other.

How does a case get dismissed?

If the judge decides probable cause has not been established, the court then dismisses the case. This means that all legal action has come to an end and the defendant is released. This may also occur if witnesses, such as you, fail to appear to testify in criminal cases. Cases may also be dismissed by the Prosecuting Attorney's Office.

What do I do when I come to court?

If you are called or subpoenaed by the Prosecuting Attorney's Office, please report to the prosecutor's office on the scheduled day approximately 15 minutes prior to your scheduled time. Our office is located on the first floor of the Justice Center, 1 Court Circle NW, Camdenton, Missouri. Our telephone number is (573) 317-3910. Court rules specify that witnesses shall be properly attired. Dress comfortably, but conservatively. No shorts or shirts with suggestive language.

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POINTS TO REMEMBER WHEN TESTIFYING

- *Tell the truth
- *Be prepared--review the events in your mind
- *Dress appropriately

- * Be courteous
- *Control your temper
- *Be attentive
- *Listen closely to the questions
- *Speak clearly and loudly
- *Answer all questions directly

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**VOCA CIRCUIT-BASED
VICTIM ADVOCATE PROGRAM
Office of Prosecution Services
200 Madison Street, Suite 1060
Jefferson City, MO 65102
(573) 751-0619**

The VOCA Circuit-Based Victim Advocate Program is provided by a grant from the Missouri Department of Public Safety. This program provides the following services:

- Case Status Notification
- Criminal Justice System Assistance/Information
- Accompany Victims to Court
- Restitution Assistance
- Crime Victim Compensation Assistance
- Community Resource Assistance