

# Crime Victim Procedures and Information

## Misdemeanor Cases



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### Victim Services

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### **What happens after a crime is reported?**

The officer involved will make a written report regarding the incident. The report will then be transcribed, reviewed by a commanding officer and presented back to the original officer for any corrections. Once completed, the report may be sent to the Prosecutor's Office for prosecution or given to an investigator for additional evidence. This process normally takes a few weeks. For that reason, you will need to contact the arresting officer until the report is received by our office. If you have received additional evidence or have been in contact with additional witnesses to the crime, you will need to report this to the officer so that he may do a supplemental report.

### **What happens when this office receives a report?**

The prosecutor reviews the report and determines if there is enough evidence to prove that a crime was committed. (It may take the prosecutor some time to review the report due to the large quantity that are received on a daily basis.) If there is enough evidence, the appropriate paperwork is prepared and signed by the prosecutor. Then the charge is reviewed and signed by the judge. A court date is scheduled and a summons is sent to the suspect (defendant) requiring them to appear.

### **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**

**Arraignment:** The first hearing is referred to as the arraignment. At this hearing, the judge will formally read the charge, advise the defendant of their rights, and ask them if they plead guilty or not guilty. If the defendant pleads guilty, the judge will determine an appropriate sentence. If the defendant pleads not guilty, the case will be set for a counsel status review. The arraignment can be waived by the defendant's attorney.

**Counsel Status Review:** The defendant has the right to obtain an attorney. At this hearing, an attorney must appear for the defendant or the attorney must file paperwork informing the court that he 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. 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. The agreements could include jail, probation, restitution, fines, treatment, counseling, community service, etc. If a reasonable plea agreement cannot be determined, the case is scheduled for bench trial.

**Bench Trial:** In most cases the defendant's attorney will request a jury trial and a bench trial would not be held. If the defendant's attorney does not request a jury trial, then both the prosecutor and defense attorney must present their case to the judge. The judge will then review the evidence and make a decision of guilty or not guilty. Your testimony may be needed at this hearing.

**Plea Agreements:** An agreement can be made at any time prior to the trial between the prosecutor and defense attorney. This is where the defendant agrees to plead guilty under certain terms and conditions. Plea agreements are a means to arrive at a reasonable disposition without the necessity of a 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 then review the evidence and make the decision of guilty or not guilty. All the jurors must agree 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 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.

**Misdemeanor Maximum Punishments:**

Class A – up to 1 year in jail or up to a \$1000 fine

Class B – up to 6 months in jail or up to \$500 fine

Class C – up to 15 days in jail or up to \$300 fine

**Continuance:** Any time during court proceedings either the defendant, the defendant's attorney, the prosecuting attorney or the court may ask for a continuance for a number of reasons. **Therefore, you should always call this office before court to verify the hearing will still be held.**

## **What is in it for me?**

First and foremost, you will know that you have done your best to make your community a safe one in which to live and work. You may sometimes feel frustrated and discouraged--the process of justice does take time. But, some of the delays you may encounter are part of the system that protects your rights if someone accused you of a crime. In our country, every person is presumed innocent until proven guilty. To protect this right, our system of criminal justice requires many steps.

## **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

\* \* \* \* \*

**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