

Eric J. Smith
Macomb County Prosecutor
Crime Victims Rights Unit
1 South Main, 3rd Floor
Mt. Clemens, MI 48043
Telephone: (586) 469-5675



Dear Friend:

Falling victim to crime is one of the most difficult, frightening, life-disturbing events we can face.

As your Prosecutor, I'm here to fight for your rights and see that justice is done. No one can make the crime disappear, or restore you life to what it was prior to the criminal event. My office will do whatever it can to guide you through the criminal justice system and provide support every step of the way

The experts in my Crime Victims' Rights Unit are here to help you through your contact with the criminal justice system. The process can seem complicated and confusing to those unfamiliar with it. This packet of information explains the system and provides a statement of your legal rights as well.

We're on your side. If you need further information or assistance please contact us at (586) 469-5675.

Very Truly yours,

Important contacts

For case status and general information:

Crime Victims Rights Unit
Macomb County Prosecutor's Office
1 South Main, 3rd Floor
Mt. Clemens, MI 48045
(586) 469-5675

For compensation for crime victims:

Crime Victim's Services Comm.
Mich. Dept. of Community Health
320 South Walnut Street
Lansing, MI 48913
(517) 373-7373

For inmate status and post-conviction status:

Macomb County Sheriff Department
Mark Hackel, Sheriff
43565 Elizabeth Road
Mt. Clemens, MI 48043
(586) 469-5151

For victim input after conviction and prior to sentencing, or for restitution questions:

Macomb County Probation Dept.
32 Market Street
Mt. Clemens, MI 48043
(586) 469-5330

For post-conviction status:

Michigan Department of Corrections
Victims Notification
Grandview Plaza Building
P. O. Box 30003
Lansing, MI 48909
(877) 886-5401

YOUR RIGHTS DURING PROSECUTION

Under the Crime Victim's Rights Act of 1985, you have the right to:

- Be present during the entire trial unless you are to be called as a witness.
- Be free from threats or acts of discharge from your employer because you are subpoenaed or requested by the court to testify in court.
- Be provided with a waiting area separate from the defendant, the defendant's relatives and defense witnesses, if practical.
- Consult with the prosecuting attorney in order to give your views about the disposition of this crime.
- Receive the name of the person to contact within the Prosecutor's office for information about your case.

ONLY UPON REQUEST

To take advantage of these rights, you **MUST** notify the Crime Victims Rights Unit by completing and returning the Right's Requested Form (enclosed). You **MUST** also keep the Crime Victims Rights Unit informed of your current address and telephone number.

You have the right to:

- Receive notice of any scheduled court proceeding and any changes in that schedule.
- Confer with the Prosecuting Attorney prior to the selection of the jury and prior to the trial.
- Receive notice if the defendant escapes custody while awaiting trial.
- Receive written notice of the defendant's conviction.
- Receive notice of the address and telephone number of the probation department that is to prepare the pre-sentence investigation report.
- Make an oral or written impact statement to the pre-sentence investigator.
- Make an oral or written impact statement at the time of sentencing in court.
- Be notified of the time and place of sentencing.

YOUR RIGHTS AFTER SENTENCING

To take advantage of the following rights, you **MUST** inform the Sheriff (if the defendant was jailed) or the Department of Corrections (if the defendant was sent to prison) that you want to be notified. You **MUST** also keep the Sheriff or the Department of Corrections informed of your current address.

ONLY UPON REQUEST

You have the right to:

- Receive within 30 days of your request, notice of the earliest release date of the prisoner from jail or prison.
- Be notified of the transfer or pending transfer of the prisoner to a minimum security facility and the address of that facility.
- Be notified of the release or pending release of the prisoner to a community residential program, extended furlough, or transfer between community residential or electronic monitoring programs, or from a residential program or electronic monitoring program to prison.
- Be promptly notified of an escape by the prisoner.
- Address or submit a written statement to the parole board or to a member of any panel having authority over the prisoner's release on parole.
- Be notified within 14 days of the decision of a parole review.
- Be notified 90 days before the prisoner's release from prison, if practical.
- Be notified of any hearing regarding a reprieve, commutation or pardon of sentence by the Governor.
- Notice that the prisoner has had his or her name legally changed while on parole or within 2 years of release from parole.
- Notice that the prisoner has been convicted of a new crime or that the prisoner has been returned to prison for a parole violation.

VICTIM ASSISTANCE

We realize being a victim of a crime can be a very difficult time for most people. Victim Assistance is an effort to help crime victims return to their normal way of life. We provide the opportunity for crime victims to express their concerns and problems, and offer help.

Services

- Provide information and help in filing for Michigan Crime Victims Compensation.
- Make referrals to other community agencies for additional assistance.
- Give information on how the criminal justice system works, and case status.
- Attend court at the victim's request
- Provide assistance in completing the Victim Impact Statement for sentencing purposes.
- Provide assistance for the return of personal property.
- Provide information regarding restitution.
- Provide community awareness.

WITNESS ASSISTANCE

Being a victim of crime can also mean being a witness in court. As a witness, you are an important part of the criminal justice system. The Crime Victims Rights Unit hopes to make your court appearance convenient and offer you the support that you will need to be part of a successful prosecution.

Services

- Assist witnesses with problems caused by court appearances as they relate to employers and personal schedules.
- Notify witnesses of delays and dates to appear to testify.
- Place witnesses on stand-by to avoid long waits if possible.
- Offer emotional support while waiting and testifying.
- Expedite payment of witness fees.

Witness Fees

A witness will receive \$6.00 for each half-day and \$12.00 for each full day that he/she is called in to testify. The witness will also be paid 10 cents per mile. These amounts are set by law.

Witness Parking

You may park for free at Park and Ride on North River Road between Gratiot and the Gibraltar Trade Center, at meters around the Courthouse, or pay \$2.00 for the parking structure next to the Courthouse. The Victims Rights Unit cannot pay for parking tickets.

CRIME VICTIMS RIGHTS UNIT STAFF

Kimberly Greenfelder, Coordinator
Nichole Bechard, Restitution Specialist
Johanna Delp, Domestic Violence Victim Advocate
Jill Lezotte, Secretary
Kay McGuire, Domestic Violence Victim Advocate
Karen Phillips, Victim Advocate
Sue Stempowski, Victim Advocate

VICTIM COMPENSATION

The Michigan Crime Victim Compensation Act was enacted for the purpose of giving financial help to crime victims who are injured or lose income because of a crime. Crime Victims compensation always pays last. All other public funds and private insurance payments that a person is eligible for or becomes eligible for must be paid and reported to the program before compensation can be considered. The Crime Victims Rights Unit will be able to assist with any questions that you may have regarding that compensation. Applications are available at our office.

Who is eligible to receive Compensation?

- A person who was injured as a direct result of a crime in Michigan.
- A person who was injured while trying to help a crime victim.
- A surviving spouse, parent, child, grandparent, grandchild, brother or sister of a person who dies as a direct result of a crime.
- A Michigan resident who was injured in another state that does not pay compensation for a non-resident.
- A Michigan resident who was injured outside the U. S. by an act of international terrorism.

What kind of financial assistance may be available?

- Injury related expenses that a person must legally pay and other eligible losses that can be proved with supporting papers and other evidence.
- Hospital bills and medical expenses.
- Loss of earnings, rehab and remedial services.
- Counseling for the injured person and family members.
- Replacement services needed because of the person's injury.

When should you file your claim?

- Within one year of the date of the injury.
- Claims for child abuse should be filed within one year of the report to the police and before the child's 19th birthday.
- When the cause of injury is first thought to be accidental or natural and then discovered to be criminal, the claim must be filed within one year of the discovery.
- You do not have to wait until the investigation or the trial is over.
- You do not need a lawyer. If you use a lawyer, it is at your own expense.

What do you have to do to receive Compensation?

- Make a police report within 48 hours after the injury unless there was a good reason for a delay or the injured person is a child.
- Be willing to cooperate with the police and the prosecutor.
- Cannot have committed or be an accomplice to the crime.

Additional Information

- Inmates are not eligible.
- A claim will be rejected if the victim caused the injury or was doing something illegal and dangerous at the time of injury.
- In the case of death, a family member may file a claim. This may include funeral expenses.
- Incomplete applications can result in long delays in claim determination. Most claims will be processed within 4 to 6 months.
- A person must have at least \$200 in out-of-pocket expenses or two continuous weeks' loss of earnings or support. These limits are excused for retired or disabled persons and for emergency room medical exams for rape victims.
- Property loss is not covered.

AN OVERVIEW FOR PROCESSING A FELONY CASE

This information is intended to assist you in understanding the procedures and process involved in a criminal case. Not every case will result in a trial, so not all cases will follow each step.

CRIMINAL EVENT

WARRANT REQUEST – If the police can develop enough evidence to establish probable cause to believe a person has committed a crime, they may arrest that person or request the evidence be reviewed by the Prosecutor for authorization of a warrant. If the Prosecutor finds sufficient legally admissible evidence, they then determine if a crime should be charged and what the crime should be.

ARRAIGNMENT/DISTRICT COURT – Once arrested by the police, the criminal appears in District Court for arraignment. At this time the defendant is informed of the charges against him/her and advised of their constitutional rights by the judge. The District Court judge then determines the conditions and type of bail and sets a date for the preliminary examination.

PRELIMINARY EXAMINATION – This is a contested hearing before the District Judge that must be set by law within 12 days of the defendant's arraignment. The Prosecutor calls witnesses to testify in an effort to convince the District Judge that a crime was, in fact, committed and there is a probable cause to believe the defendant has committed the crime charged. The defendant is normally represented by an attorney who can cross-examine the witnesses and present evidence. If probable cause exists, the defendant is sent (bound over) to the Circuit Court for trial. A defendant may decide at any time not to have a preliminary examination and be sent directly to Circuit Court.

ARRAIGNMENT/CIRCUIT COURT – When the case is bound over to the Circuit Court, the defendant is again arraigned, and given formal notice of the crimes charged. He/she is once again advised of their constitutional rights and a plea is entered to the charge. This hearing is conducted by the trial judge. A pre-trial conference can occur at this time.

PRE-TRIAL PROCEEDINGS – Numerous events can occur prior to the trial; the Court may hear motions to determine whether evidence will be admissible or excluded at trial, or if there is some legal reason why the defendant should not be tried. Additionally, the defense attorney and prosecutor will often meet to determine if the defendant will plead guilty to the crime charged or some other offense to resolve the case.

TRIAL – A trial may be heard by the judge or by a jury. During trial, the defendant is not required to testify or present any evidence and is not required to prove his/her innocence. The trial itself is an adversary proceeding in which the prosecutor must present evidence to establish the defendant's guilt beyond a reasonable doubt. The prosecutor must also call all witnesses to the crime; even though they may be hostile to the people's case. Following the proofs and a series of lengthy instructions on the law, either the judge or jury renders a decision.

SENTENCING – If the defendant is found guilty of the crime, a date for sentencing will be set by the Court. Prior to that date, a pre-sentence investigation report must be prepared by the probation officer. The probation officer works with the Court and is an employee of the State Department of Corrections. The report contains information about the crime, defendant's background and a sentencing recommendation. The victim has an opportunity to address the Court regarding the impact that this crime has had on him/her. The judge is the sole determiner of the minimum sentence, and the Court will consider several alternatives such as a fine, probation, community service, a term in jail or prison or any combination of the above. The judge also will order the defendant to make restitution to any victim suffering physical or financial losses.

APPEALS – A convicted defendant is entitled, by constitutional rights, to an appeal of his/her conviction. This appeal, if requested, goes to the Michigan Court of Appeals.

AN OVERVIEW FOR PROCESSING A MISDEMEANOR CASE

This information is intended to assist you in understanding the procedures and process involved in a criminal case. Not every case will result in a trial, so not all cases will follow each step.

CRIMINAL EVENT

FILING CHARGES – A case may start from a police ticket, citation or from an arrest warrant. A warrant must be authorized by the prosecutor. These documents are filed with the District Court.

ARRAIGNMENT – Once arrested, the suspect appears in District Court for arraignment. The defendant is told the charges against him/her, and advised of their constitutional rights. The conditions and amount of bail are determined. If the defendant pleads guilty, the court will schedule the case for sentencing. If the defendant pleads not guilty, the case will be set for trial.

PRE-TRIAL PROCEEDINGS – Many events can occur prior to the trial. The court may hear motions to determine whether evidence can be used at trial, or whether there is some legal reason why the defendant should not be tried. The prosecutor and defense attorney will often meet to determine whether the defendant will plead guilty to the crime charged or some other offense.

TRIAL – The trial may be heard by a judge or jury. During the trial, the defendant is not required to testify or present any evidence and is not required to prove his/her innocence. The trial is an adversary proceeding in which the prosecutor must present evidence to establish the defendant's guilt beyond a reasonable doubt. The prosecutor must also call all witnesses to the crime, even though they may be hostile to the people's case. Following the proofs and a series of lengthy instructions on the law, either the judge or jury renders a decision.

SENTENCING – If the defendant is found guilty, the judge will set a date for sentencing. A probation officer may prepare a pre-sentence investigation report. It contains information about the crime, defendant's background and sentence recommendation. At sentencing, the judge will consider the information in the report. The victim has an opportunity to address the Court regarding the impact that this crime has had on him/her. Determination of the sentence is the judge's sole responsibility. The judge may consider different alternatives, such as a fine, probation, community service, a sentence to jail, or a combination. The judge also will order the defendant to make restitution to any victim suffering physical or financial losses.

APPEALS – A convicted defendant is entitled, by constitutional rights, to an appeal of his/her conviction. This appeal, if requested, goes to the Circuit Court.

SUGGESTIONS TO A WITNESS

Before Coming to Court

- Try to picture the scene of the crime and what just happened, so that you can recall it more accurately when you testify in court.
- If you are going to testify about records, familiarize yourself with them before the trial.
- An appointment may be arranged for you before trial with the Assistant Prosecuting Attorney. This meeting will allow you to discuss the case before trial.

On the Day you are to Come to Court

- Dress appropriately. A neat appearance and proper dress in court is important.
- Bring any records that have been requested or any items that pertain to the case.
- If you have been subpoenaed to court, bring it with you. The subpoena will provide information about when and where to appear.
- Arrive at court on time. Unnecessary delays can be caused when a victim or witness is late in arriving at court.
- Witnesses who are under the influences of drugs or alcohol could be held in contempt of court.
- Conduct yourself in a dignified manner when you are in the courthouse. The trial of a criminal case is a serious matter.

What Happens to a Witness in Court

- As a witness for the State, you may be questioned by the Assistant Prosecuting Attorney and then by the defendant's attorney.
- You may feel during the questioning that your testimony is under suspicion or that your personal motives are doubted. However, the questioning is not meant as a personal attack toward you. It is intended to ensure that all sides of the story are told and to establish the truth.
- The judge is there to assist you if you do not understand a question and to see that you are treated respectfully.

When You are Called to the Stand to Testify

- Always tell the truth.
- You probably will be nervous, as most people are.
- You will be asked to take an oath to tell the truth. Remember the seriousness of this oath the entire time you are answering questions.
- Perjury – telling a deliberate lie under oath – is punishable by imprisonment for up to 15 years. In a capital crime, i.e. murder, perjury is punishable by imprisonment for life or any number of years.
- Listen carefully to the questions. Be sure you understand each question before answering. If you do not understand, ask that the question be asked again or explained.
- Take the time you need to consider the question before answering it.
- If you don't know the answer to a question, just say you do not know.
- Answer the question that is asked and then stop talking. Don't offer information not actually asked for.
- If you are sure of the answer, answer positively. Don't say "I think" or "I guess" when you are certain.
- Sometimes, it is necessary to make an estimate. If you make an estimate, such as what time something occurred, make sure that everyone understands you are estimating.
- The judge and jury are interested only in the facts. Don't give your opinions or your conclusions, unless they are specifically asked for.
- Speak clearly, so you will be heard and your answers can be recorded accurately by the court reporter.
- If an attorney objects to a question, do not begin your answer until the judge tells you to do so.
- Be polite while answering questions. Do not lose your temper with the attorney questioning you.
- If you realize that something you said is not really accurate, immediately tell the judge, so you will be allowed to correct the error. If you realize after you have left the witness stand, tell the Assistant Prosecuting Attorney.
- Do not discuss your testimony with other witnesses without first getting permission to do so from the court.

THE CRIMINAL JUSTICE SYSTEM

Important Terms

Adjournment – a delay asked for by the judge or either side. The judge must agree to the delay.

Arraignment – defendant is formally charged and can plead either guilty, not guilty, or stand mute. The amount of bond, if necessary, is set at this hearing.

Bound Over – in a preliminary examination, if the judge finds that it is reasonable to believe that the defendant did it, the defendant is sent to Circuit Court to stand trial.

Circuit Court – handles all felony trials and sentencing.

Criminal Defendant – a person who is charged with a crime.

District Court – handles all misdemeanor cases, sentencings, traffic violations and the first stages of felony cases.

Felony – a crime for which a person may be sent to a state prison or local jail for one year or more.

Misdemeanor – a crime for which a person may be sentenced to not more than one year.

Motion – court hearings to answer legal questions.

Parole – after release from a state prison an offender can be placed on parole for a given amount of time. He or she reports regularly and is watched by a person from the Michigan Department of Corrections.

Preliminary Examination – a hearing to find out whether a crime happened and if there is reason to believe that the defendant did it. This hearing is held only for felony crimes in District Court.

Pre-sentence Report – a background investigation of the defendant to assist the judge in determining sentence. The officer conducting this investigation may interview you to assist the judge.

Pre-trial – meeting between attorneys to see if the case can be settled without going to trial or to see if all the parties are ready to go to trial.

Probation – a sentence that places the offender under the close supervision of a probation officer.

Prosecuting Attorney – the attorney who represents the people of the State of Michigan against a criminal defendant.

Restitution – an amount of money set by the Court to be paid to the victim of a crime for property losses or injuries caused by the crime.

Stand Mute – one of the possible pleas at arraignment that is the same as pleading not guilty.

Subpoena – a legal order that requires a person to appear in Court to testify as a witness.

Warrant – an order for arrest authorized by the prosecuting attorney and signed by the judge.

Although intimidation of a witness/victim is a rare occurrence, it occasionally does occur. If this should happen, report it to the police or prosecutor immediately!