

COVID-19 - The Supreme Court of Missouri ordered operational directives to help courts statewide in regard to in-person proceedings in the courts. Access www.courts.mo.gov and click on the COVID-19 Alert for court specific procedures for the court you are attending.

- 1. Report the crime.** – To be eligible for victims' rights, you must be a victim/survivor of a violent crime, you must report the crime to law enforcement, and you must cooperate throughout the process.
- 2. Make all requests in writing.** – You have statutory and constitutional rights that protect you if you report the crime and want to participate in the criminal justice process. However, not all rights are automatic. In Missouri, your rights are secured '**upon request**' to the prosecutor and/or judge. Therefore, it is strongly recommended that you send **written** notification in all circumstances (regardless of how the crime is charged) to various agencies (prosecutor's office, juvenile division, custodial facility, probation agency) with whom you wish to be kept informed. A sample 'Letter to Secure Your Rights with the Prosecutor' is provided under the Filing a V.O.I.D. link on the MSHP website (www.msdp.dps.mo.gov). If you have access to the Internet, **after the charges are filed by the prosecutor**, case information, hearing dates, etc., can be viewed and automatic notification can be obtained by utilizing Case.net at www.courts.mo.gov and clicking on the blue link on your case and registering for notifications of hearings.
- 3. Exercise your rights.** – In a nutshell, as a victim you have the right to be present at anything at which the defendant has a right to be present. But, you have other rights, too. It is recommended that you read and understand your rights as a victim of a crime. The statutory language (Sections 595.200– 595.218 RSMo) can be accessed online at www.moga.mo.gov under MO Revised Statutes. If you have questions about your rights, utilize the victim advocates available in the system. Remember, you only have one opportunity at the process and your participation helps ensure that the system works as best as it can for you or your loved one(s). **The prosecutor likely will not actively try to keep a victim involved who is not responsive to the prosecutor's contacts, phone calls, letters, etc.** Pay attention to the process and be proactive in asserting your rights. The system doesn't work perfectly, and your attention to the process will help to prevent rights violations **before** they occur.
- 4. The PROSECUTOR is the one person in the system that can help you THE MOST.** – Exercise your 'right to confer' with the prosecutor assigned to your case. He/she is the one person in the system that can help you the most! Do not misinterpret your right to 'confer' as a right to direct the prosecution of the case or to veto decisions of the prosecutor. It is not your right to control the prosecution, but the law does require the prosecutor **to hear the victim's concerns and get the victim's input.** (Procedural guidelines in the law regarding the right to confer leaves its implementation at the prosecutor's discretion.)
- 5. The Prosecutor is NOT the victim's attorney.** – In Missouri, the prosecutor represents the state of Missouri, not the victim. Victims in Missouri have no legal standing in the courtroom in a criminal case; therefore, a victim may not have an attorney representing them in the criminal case. (This should not be confused with the fact that a victim may hire an attorney for a civil matter related to the criminal act.) However, a prosecutor commonly is willing to work toward an outcome that a participating victim desires.
- 6. Read everything sent to you.** – Review the documents given or sent to you by law enforcement, prosecutors, probation officers, other court personnel, and Crime Victims' Compensation. Act on anything that has deadlines, or requires your action or attention.
- 7. Ask questions and be assertive.** – If you do not understand why something happened, ask for an explanation. Don't be afraid to ask about relevant rules, policies, or laws. As a victim of a crime, you have a right to information. Additionally, when speaking to employees in the prosecutor's office, be aware that it is quite likely that many do not have law degrees. If you are unable to get clear answers to questions that require legal expertise, make sure you speak with the prosecuting attorney assigned to your case.
- 8. Prepare yourself.** – Before calling or meeting with someone, have your questions ready. Clearly determine ahead of time of what you want to say, ask, or discuss, and, specifically, what you want to know. Be aware that the prosecutor commonly is willing to work toward an outcome that a participating victim desires. Write down the responses to help you remember.

9. Request a meeting. – If you wish to meet with the prosecutor, rather than dropping in randomly to try to catch the prosecutor in court or at his/her office, call and set up an appointment. If you feel your efforts are being ignored, call or write the individual or agency to request a meeting. If you are still ignored, denied a meeting, or problems continue, take further action by using the appropriate chain of command within an office or agency, or contact a victim advocate for assistance. (When trying to communicate with the prosecutor's office, it can be more efficient to make regular, consistent contact with the victim advocate, if available, rather than the prosecutor. Reserve contact with the prosecutor for important issues the victim advocate is unable to address adequately.)

10. Keep records. – Relying on memory is not the most reliable method of recordkeeping and it can prove problematic if you want to make a formal complaint about a specific person or agency or if you want to obtain restitution. Take notes of conversations and dates, and ask for the names and titles of people with whom you speak. Keep all of your correspondence. Regarding restitution, support any expenses you have with receipts, bills, affidavits, or expert testimony (i.e. for future losses).

11. Restitution – If you have suffered economic loss due to the crime, keep a record of economic loss with receipts, bills, affidavits, or expert testimony and discuss with the prosecutor, so that he or she may try to obtain restitution for you. Types of recoverable loss **due to the crime** may include medical and mental health costs such as herbal and traditional treatments; testing for diseases; attorney's fees; credit monitoring and repair; child care; education and vocational retraining; home remodeling; property loss and damage; crime scene clean-up; travel and transportation; burial and funeral expenses; protection-related expenses such as security alarms; temporary and permanent relocation; and lost income such as current lost income and possible future lost income. Pain and suffering are not recoverable through restitution. Instead, a civil suit would have to be filed. Although restitution is generally ordered at the time of sentencing, there may be times after sentencing when it can be ordered. Keep in mind that plea agreements may impact restitution. Ask that the prosecutor include restitution for dismissed charges as part of any plea agreement.

12. Plea Agreements – Understand that some cases can be difficult to prosecute and a prosecutor is duty-bound from prosecuting a charge that he/she knows is not supported by probable cause. Therefore, strategy may be involved. And because there is no guarantee of conviction, plea bargaining is frequently utilized to settle cases. Plea bargaining is the process where the prosecutor offers to dismiss or reduce charges against the defendant in exchange for the defendant pleading guilty and waiving his/her right to a trial. **This is a very common practice.** Some of the factors that are weighed during this process as the defense and prosecution decide how to proceed are: 1) the amount and quality of the evidence against the defendant; 2) potential defenses to the charges; 3) the amount of time a trial will take; 4) the amount of time the defendant will serve in prison; and 5) the effect of the case on the victim. If an agreement is reached, the defendant will change the plea to 'guilty' and the agreement is presented to the court. The agreement may be binding on the court or the court may have some discretion to reject it, discuss alternatives that are acceptable to the court, or accept the agreement. If the court rejects the plea agreement, the defendant may withdraw the guilty plea.

13. Victim Impact Statement – The offender may exercise the opportunity to have witnesses give personal testimony on his/her behalf. Likewise, the Victim Impact Statement gives the victim the opportunity to be heard. A Victim Impact Statement provides information to the sentencing body, improves the fairness of the sentencing proceeding by sharing the impact the crime has had on the life of the victim and conveys the crime's harm to the defendant and the judge. It also gives the victim a chance to voice their views on sentencing. This part of the process can empower the victim. Victim service professionals can help victims prepare a Victim Impact Statement. There may be parameters such as time limitations and the prosecutor's wish to review the statement before it is presented in court. Therefore, making contact with the prosecutor's office regarding your statement is recommended. Also, discuss with the prosecutor the fact that the Victim Impact Statement most likely will be provided to the defendant and his/her attorney. Always have your Victim Impact Statement in written format, so that it may be included in the offender's file for review at Parole Board hearings. *The impact of the offense is an important consideration in determining the appropriateness of a plea agreement and sentencing. Your statement can influence the court's decision and provide the court with your perspective and opinion on what sentence the defendant should receive and whether restitution is owed to the victim.*

CRIME VICTIM'S RESPONSIBILITIES: If you wish to exercise your rights as a victim of a crime, it is a victim's responsibility to:

- Provide **formal, written notification** to the appropriate agency or agencies to secure rights and be present at hearings. Provide your name, address, and phone number, and notify the agencies of any changes to same.
- Notify the court or prosecutor before a plea or sentencing of your desire to provide an oral or written Impact Statement.
- Provide the prosecutor with a list of damages regarding any financial recovery, so restitution may be obtained.