

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 Filling a V.O.I.D. link on the MSHP website (www.mshp.dps.mo.gov). If you have access to the Internet, once 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 Case.net link.

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). 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 or 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**. (There are few procedural guidelines in the law regarding the prosecutor's responsibilities to confer which leaves its implementation largely at the prosecutor's discretion.) Be aware that the prosecutor may be willing to work toward an outcome that the victim desires. If you wish to meet with the prosecutor, rather than trying to catch the prosecutor randomly at court or his/her office, call and set up an appointment. Keep in mind that some cases can be difficult to prosecute and strategy may be involved.

5. The Prosecutor is NOT the victim's attorney. – In Missouri, be aware that 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.)

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 quite a bit of information. Additionally, when speaking to employees in the prosecutor's office, be aware that it is quite likely that they do not have law degrees or legal expertise. If you are unable to get clear answers to questions that require legal expertise, make sure you speak with the 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. Write down responses given to help you remember.

9. Leave messages. – Remember that people can be busy and may not be able to talk to you right away. Leave a complete message about why you are calling along with contact information. 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 assigned to the case. Reserve contact with the prosecutor for important issues the victim advocate is unable to address adequately.

10. Request a meeting. – If you feel your efforts are being ignored, call or write the individual or agency to request a meeting. If you are 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.

11. 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).

12. Restitution – If you have suffered economic loss due to the crime, keep a record of loss to 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. Support your claim of economic loss with receipts, bills, affidavits, or expert testimony. Although restitution is generally ordered at the time of sentencing, there may be times post 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.

13. Plea Agreements – 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 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. This 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.

14. 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 perceived 'fairness' of sentencing by sharing the impact the crime has had on the life of the victim, gives the victim a chance to voice their views on sentencing, and an assessment of the crime's harm. 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 form, so that it can be included in the offender's file for review at Parole Board hearings. *Victims can play an essential role in the appropriate administration of justice by using the tool of the Victim Impact Statement. If the victim has had the opportunity to confer with the prosecutor and understands the facts that the court is likely to consider at sentencing, the victim has a greater opportunity to adapt the Victim Impact Statement so as to be most relevant to the court and have the greatest likelihood of impacting the sentencing decision.*

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 Victim Impact Statement.
- Provide the prosecutor with a list of damages regarding any financial recovery, so restitution may be obtained.