

Talking Points

1. As a victim you have the right to be present at anything 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 possible 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.
2. 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 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.
3. 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.)
4. 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 all employees in the prosecutor's office 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.
5. Before calling or meeting with someone, have your questions ready. Clearly determine ahead of time specifically what you want to say, ask, or discuss, and what you want to know. Write down responses given to help you remember.
6. 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 your 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.
7. 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.
8. Relying on memory is not the most reliable method of recordkeeping. Take notes of conversations and dates, and ask for the names and titles of people with whom you speak. Keep all your correspondence. Regarding restitution, support any expenses you have with receipts, bills, affidavits, or expert testimony (i.e. for future losses).

Decide whether you prefer to talk to the prosecutor in person or over the phone. Tell the prosecutor a little bit about you and your life, the crash/incident (especially if there are details you want to make sure he/she is aware of), your injuries or losses, and how the crash has impacted you. **Be courteous and keep in mind that the prosecutor is the most powerful law enforcement agent in the county and the one person who can help you the most in this process!**

Here are some questions to ask the prosecutor that is assigned to your case. This list may also help you to generate some of your own questions.

- Who is the prosecutor or assistant prosecutor assigned to the case? _____
- How is the offender being charged? _____
Please explain the charges to me. _____
- What can he/she discuss with you about the case? Strengths/weaknesses of the case? How solid is the evidence? _____
- Do the lab results show impairment? What were the results? _____
- Will I be called to testify at any point? _____
- What will occur at the next court date? _____
- Why are so many continuances being allowed for the offender? Will you object to any further continuances?

- What outcome/sentence is possible? _____

- Who will be the judge hearing this case? Do you know the judge to be tough or lenient? _____

- Will the offender be placed in an alcohol/drug treatment program as part of the sentence? _____

- How will the conviction affect the offender's driver's license? _____
- If incarceration is ordered, how soon will offender be eligible for parole? _____
- From start to finish, how long do you think this case will take? _____
- How much experience/success/wins have you had with this type of case? _____

- Ensure the prosecutor knows the extent of your injuries.
- Do you think this case will go to trial or do you typically prefer to negotiate a plea bargain? _____

- If a plea, what is the plea being offered? _____
- If probation, will it be supervised or unsupervised? What conditions is the offender required to follow? How long will the probation period last? _____

- Which type of probation are you asking for? An SIS* or SES*? _____
- If the offender is given probation, will restitution be ordered for me or my family? What amount? \$ _____
- How much time will the offender be given to pay? _____
- How efficient/effective is the restitution process in this county? How do I collect it once it's ordered? _____

- If the offender defaults, how many months of non-payment before it's considered to be in default? What then? _____

