

Tips on How to Engage in the Criminal Justice Process Effectively

- 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. Request your rights 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.court.mo.gov.

- 3. Exercise your rights to the best of your ability** - 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 is not that difficult to understand (595.200-595.218 RSMo) and can be accessed on-line at www.moga.mo.gov under MO Revised Statutes. If you have questions about your rights, utilize the victim advocates that are 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 pro-active 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. Understand that 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 a right to control the prosecution, but it does require the prosecutor **to hear the victim's concerns**. (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 also 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 by dropping by his or her office, instead call and set up an appointment to meet with him/her.

- 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 and therefore, 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 in regard 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 requires your action and/or attention.

- 7. Ask questions & 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 a lot of the employees in the prosecutor's office do not have law degrees or even a substantial amount of legal expertise. If you are unable to get clear answers to questions that require legal expertise, make sure you speak with an attorney, preferably the one assigned to your case.

- 8. Prepare yourself** - Before calling or meeting with someone, review all documents and 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.

- 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 the victim advocate, if available, rather than the prosecutor assigned to the case. Reserve contact with the prosecutor for important issues that the victim advocate is unable to adequately address.

10. Request a meeting - If you feel that your efforts are being ignored, call or write the individual or agency to request a meeting. If you are ignored or denied a meeting or problems continue, take further action by using the appropriate chain of command within an office or agency.

11. Keep records - Relying on memory is not always 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, dates, ask for the names and titles of people with whom you speak, and keep all correspondence. In regard to 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 losses due to the crime, keep a record of them to discuss with the prosecutor so that he or she may try to obtain restitution for you. Types of recoverable losses **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; lost income such as current lost income and possibly future lost income. Generally, pain and suffering are not recoverable through restitution. Instead, a civil suit would have to be filed. Losses should be supported by 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 still 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 they each decide how to proceed are the amount and quality of the evidence against the defendant, potential defenses to the charges, the amount of time a trial will take, the amount of time the defendant will serve in prison and 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 meaningfully 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, the crime's harm, and benefits and empowers the victim. Victim service professionals can help victims prepare a Victim Impact Statement. There may be parameters such as time limitations and the prosecutor may 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's and his/her attorney.

With the Victim Impact Statement, victims can play an essential role in the appropriate administration of justice. 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 your rights and be present at hearings. Provide your name, address, and phone number, and notify them 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 that restitution may be obtained.

How to File a Rights Violation Complaint - If you have a victim rights complaint, and all your other efforts at resolution have failed, you should file a complaint with appropriate overseeing agencies (below). For some violations, there may be no effective remedy other than to help prevent such violations from occurring in the future to other victims.

(Prosecutors and Judges are elected officials and are accountable to the voting public and are **not** overseen by the Attorney General's Office. Depending on the nature of your complaint, you may need to contact your local Representative or Senator instead.)

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Jefferson City, MO 65109

573-635-7400

573-635-2240 fax

www.mochiefcounsel.org

(Enforces rules of professional conduct for attorneys, reviews complaints against attorneys, investigates unauthorized practices of law, etc.)

MO Department of Public Safety

Crime Victim Services Unit

P.O. Box 749

Jefferson City, MO 65102-0749

573-751-4905

866-334-6682

www.dps.mo.gov/dir/programs/

cvsu

(Reviews Victim Rights complaints)

**Commission on Retirement, Removal
& Discipline**

2190 South Mason Rd., Suite 201

St. Louis, MO 63131

314-966-1007

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www.courts.mo.gov

(Reviews complaints against Judges)