

Victim Rights

FORMS

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LEGAL RIGHTS OF VICTIMS

Under the Michigan Constitution and the Crime Victims Rights Act, you have the right to:

- be treated with fairness and respect throughout the criminal justice process
- timely disposition of the case following the arrest of the accused
- receive an explanation of criminal procedure
- reasonable protection from the accused throughout the criminal justice process by having a waiting area separate from the defendant and the defendant's relatives and witnesses, and receiving advice to follow if threatened or intimidated by the defendant
- be free from threats or acts of discharge from your employer because you are subpoenaed or requested by the Prosecuting Attorney to testify in court
- consult with the Prosecuting Attorney to give your views about the disposition of the case
- receive notice of emergency and medical services from the investigating police agency
- the name of the person in the Prosecutor's Office with information about your case
- all scheduled court proceedings, including sentencing the defendant's release on bond or escape from custody while awaiting trial
- when a pre-sentence investigation report is ordered by the court, the address and telephone number of the probation department that is preparing the report
- an explanation of eligibility requirements for victim's compensation benefits
- attend trial and all other court proceedings the accused has the right to attend (unless you are sequestered before you testify)
- confer with the prosecution before trial and before the jury is selected
- make an oral statement to a pre-sentence investigator, or have a written impact statement included in the pre-sentence report
- make an oral or written statement to the court at sentencing
- restitution
- information about the conviction, sentence, imprisonment and release of the accused
- an explanation of the appeal process
- prompt return of your property taken during an investigation, except as otherwise provided by law

TESTIFYING IN COURT

I have received a subpoena from the prosecutor's office. I have never testified before, so I am somewhat scared or unsure of what is going to happen. Is there something I need to know when I come to court?

The following suggestions may help you if you have to testify:

- Tell the truth! This is the single most important advice any witness should remember.
- Dress neatly! A neat appearance and proper dress in court give an important first, and lasting, impression.
- Conduct yourself in a dignified manner! The trial of a criminal case is a serious matter, so act appropriately both inside and outside the courtroom.
- Be prepared! You should know days or weeks ahead of time that you will be testifying in court. Think about the incident and what happened so that you can recall the details accurately when you are asked in court. If you need help remembering these details, write the facts down. If you have already written a statement for the police, ask the prosecutor's office for a copy - reading it may jog your memory on some details. Think ahead of time about the answers you will give to the questions you expect will be asked.
- Do not try to memorize what you will say in court! Jurors are hesitant to believe testimony that sounds "scripted." Also, the lawyers' questions may not coincide with your expected answers.
- Stick to the facts! The judge or jury only wants to hear the facts as you know them to be, not what someone else told you.
- Relax . . . speak clearly! You have nothing to fear when giving truthful answers. When you are asked questions, give your answer as clearly as possible.
- Expect to be questioned by several people. One of the basic rules in a criminal case is that both sides have a chance to question every witness. Questions asked by both sides have the same goal - to find out what is true.
- Do not lose your temper! Be courteous. Don't let the lawyers upset you. It may seem at times that an attorney is trying to pin you down, but he or she has a right to test how many of the facts you know and accurately remember.
- Don't start to give your answer until the question is finished. If you have not yet heard the entire question, you don't really know what you are being asked. Don't "jump the gun" by answering what you think the question will be.
- Think about your answer before you give it. Your every word counts. Be descriptive. Be accurate. Vague or inconsistent responses give other people a chance to misinterpret what you meant your answer to be.
- Answer all questions to the point. If the question calls for a short answer, give a short answer. If you are asked to explain, explain.
- Answer only the question asked! Do not volunteer information. If the lawyers want to know more, they will ask.

- Don't exaggerate or guess! If you don't know the answer to a question, say so. If you don't remember the information that you are asked, say so. Guessing is not telling the truth.
- Answer the questions verbally. Your testimony is being recorded - either tape recorded or written down. Head shakes and head nods are not able to be recorded. Also, instead of saying "uh-huh" or "uh-uh", say "yes" or "no".
- If you are comfortable about it, look at the jury when answering. Jurors are ordinary people like yourself - they won't harm you. However, they will consider your attitude, facial expressions, and body language when evaluating your testimony.
- Never attempt to talk to a juror about anything while the case is being tried. This includes chance meetings during recesses, lunch, or after court is finished for the day.
- If either lawyer raises an objection, stop speaking at once! After the judge has ruled on the objection, you will be instructed whether or not to continue your answer.

Several other rules:

- If you don't understand or hear a question, ask that it be repeated or explained.
- If your answer was not correctly stated, correct it immediately.
- The prosecutor's office will assist you with any questions you may have prior to testifying in the courtroom.

OTHER FREQUENTLY ASKED QUESTIONS

Why am I a witness? I didn't see the crime occur.

Witnesses are not limited to what is referred to as "eye witnesses," that is someone who actually saw the crime occur. You may have seen or heard the crime happen or may know something about it. You may also know something about a piece of evidence, or may know something that contradicts another witness' testimony. You may not think what you know about the case is very significant. However, small pieces of information are often required to determine what really happened. If you wonder why you are testifying in a particular case, ask the prosecutor handling the case. Usually, there is a common sense reason for your testimony. Your presence and willingness to testify may be the deciding factor in determining what will be done in the case. Many defendants hope that you or other witnesses will not show up. Your mere presence at the Courthouse may cause the defendant to plead guilty.

What if someone threatens me?

Concerns about your well-being and safety after being victimized or a witness to a crime are normal concerns. If you have any fears or receive any threats concerning your involvement in a case, you should immediately contact the law enforcement agency that investigated your case. In an emergency situation, call 9-1-1. You need to do so as soon as possible so that the threats can be documented and appropriate action taken. There are laws to protect you against people who attempt to bribe, intimidate, threaten or harass you.

What if the defense attorney contacts me?

In representing a client, a defense attorney may contact you and want to talk to you about the case. Keep in mind that you do not have to talk to anyone about the crime, including the defense attorney or an investigator for the defendant, prior to testifying in court. If you choose to do so, always request proper identification and an explanation of the purpose of the interview. If you have concerns about talking with a defense attorney or their investigator, you are encouraged to contact the assistant prosecutor handling your case. It is possible that the assistant prosecutor may be able to be with you at the time of the interview.

I have received a subpoena from the prosecutor's office to appear as a witness in a criminal case. Do I get paid for being there? What if I cannot be there on the date and time shown on the subpoena? What if I don't show up when I am supposed to?

A witness is entitled to a witness fee of \$6.00 per half day (\$12.00 for the whole day) plus \$0.10 per mile. This isn't much, but this is the amount set by the Michigan Legislature. Neither the judge nor the prosecutor can change the amount. The prosecutor's office vouchers all witness fees through the county's finance board which must approve all expenditures. Therefore, you may not receive payment immediately - in fact it may take up to four to five weeks before you get your check. If you cannot attend court at the date and time stated on your subpoena, please call the prosecutor's office immediately and ask to speak to **Jesse Burgher** or to the attorney who signed the bottom of your subpoena. Unless you are excused, you must attend. If you fail to appear at the date and time listed in the subpoena after being served with it, the judge could hold you in contempt of court. The judge could then impose a fine or jail sentence for your failure to appear. Don't let that happen to you!

Do I have to testify in front of the defendant?

The defendant in a criminal case must be present in court to hear what all the witnesses say about the case. The lawyer for the defendant will be the one asking questions of you, not the defendant (unless the defendant does not have a lawyer). The defendant's lawyer will be asking you questions after the prosecutor first asks questions.

Who will be with me in court?

You may bring friends and/or relatives with you to court, and they can probably sit in the courtroom while you testify, unless they are also witnesses. Witnesses usually testify one at a time and generally wait outside the courtroom for their turn. This is called "sequestration." Our victim/witness coordinator may also be with you, if you request. Young children who are required to testify may also have a "support person" present in the courtroom with them. Of course, the "support person" may not help the witness or coach the witness while the witness is testifying.

How long will I be in court?

Your courtroom time, while actually testifying, may or may not take long - it depends upon many factors. Most of the time you will just be waiting for your turn to testify. You and your family/friends are encouraged to bring a book, magazine, or toys (if small children are involved).

The prosecutor's office strives to reduce the amount of time of your wait as much as possible. For example, if a trial will last several days, we try to limit your time at the Courthouse to either a half day or one day. However, if you are the victim of the crime, we may ask that you remain throughout the trial.

How many times will I have to appear at court?

No one can tell you for sure in advance how many times or how long you will have to be in court. The process of justice takes time. There may be adjournments and delays in taking testimony on cases. In general, a witness will only have to appear for misdemeanor offenses for the trial itself. In a felony case, a witness may first have to appear at the preliminary examination and later at the trial. On rare occasions, a witness may have to testify at a pre-trial motion.

What if my employer won't let me come to court?

If you are lawfully subpoenaed to appear in court, an employer cannot prevent court attendance. When appropriate, the prosecutor on your case can contact your employer to discuss the importance of your role as a witness and try to schedule your testimony to minimize the inconvenience to your employer. If requested, we can provide you with a note, on prosecutor letterhead, confirming the days/hours when you were in court.

How do I know if my case has been adjourned ("called off")?

There is a telephone number listed on your subpoena for you to call after 5:00 p.m. the night before you are to appear in court. Please call that number. You will be instructed as to whether you are still required to appear.

I was subpoenaed by the defendant, not the prosecutor. Does this change anything?

Our victim/witness coordinator can only help witnesses that the prosecutor's office has subpoenaed for court. The prosecutor's office cannot help you as to the time you need to be at court or paying you for your time as a witness. You must ask the defendant's lawyer about those matters.

I have a question that has not been answered here. Is there someone I can speak to about my question?

Please call our office telephone number (989-345-6222) and ask to speak to Jesse Burgher, our victim/witness coordinator. If she cannot help you, she may ask the prosecutor who is handling the case in which you are a witness to call you back when that prosecutor is available.

HELPFUL SUGGESTIONS FOR CRIME VICTIMS

Our victim advocate is here to assist you with your questions about the legal system. Please feel free to call the victim advocate as questions arise. Here are some suggestions for you to consider:

1. Fill out and return your gold Victim Impact Statement and your blue Request for Rights sheet. Your victim impact statement lets us know how this crime has impacted you. An envelope is also enclosed for your convenience.
2. Keep our office up-to-date with current contact information such as: your mailing address or where you are staying, phone, pager and/or e-mail so we can give you the latest information available.
3. If your case has the attention of the media, our office can help you interact with the media. If you want your feelings made known, it can be done without damage to the case in the court system.
4. Attend court hearings to keep up to date on the details in the case. If you will be attending, check-in with the victim advocate so we are able to notify the prosecutor handling the case. Or if you cannot attend, you can call our victim advocate later to find out what happened.
5. You can get a copy of the police report from our office (after the preliminary hearing in felony cases). If you have information in addition to what is in the police report, write it down and give it to the police agency handling your case.
6. If your injuries are visible, take photos. You may contact the police agency regarding photos for additional bruising, or take your own photos.
7. Provide documentation to verify your losses to receive restitution. This documentation needs to be given to our office at least two weeks before sentencing. If you were covered by insurance, have your insurance agent contact our office to ask for reimbursement of their claim and your deductible.
8. You have the right to speak at sentencing. Unless you speak in person or write a victim impact statement, the judge will not know how the crime has affected you and your family.

VICTIM ASSISTANCE

Our crime victim advocate is here to assist a crime victim respond to the court process and help the victim return to his/her normal way of life.

We can also provide information on:

- Michigan Crime Victims Compensation
- Local emergency services
- Referrals to other community agencies
- Status of your case
- Accompanying a victim to court

- Completing Victim Impact Statement
- Return of personal property
- Restitution

If you are intimidated or threatened with violence: **CONTACT THE POLICE IMMEDIATELY**

To contact our victim advocate call:

Jesse Burgher
(989)345-6222

IMPORTANT NUMBERS

In case of an Emergency:

Dial 911

Ogemaw County Sheriff	(989)345-3111
West Branch Police	(989)345-2627
Rose City Police	(989)685-3051
MI State Police, West Branch	(989)345-0955
Og Co Prosecuting Attorney	(989)345-5700
Crisis Hotline	(800)442-7315
Crisis Pregnancy Center	(989)345-3909
Poison Control	(800)222-1222

Important Resource Contacts:

Og County Victim Advocate	(989)345-6222
MI Runaway Assistance Hotline	(800)292-4517
Hospice of Helping Hands	(989)345-4700
Alcoholic Anonymous-Ogemaw	(989)345-5571
AuSable Valley Subst Abuse	(989)345-5571
River House Shelter	(888)554-3169
Parent Help Line	(800)942-4357
Family Independent Agency	(989)345-5135
Friend of the Court	(989)345-5520
Ogemaw Public Transit	(989)345-5790
United Way	(989)345-5532
Unemployment Help Line	(800)638-3995
Legal Services of Northern MI	(800)872-8432
Probate/Family Court	(989)345-0145
Ogemaw County Clerk	(989)345-0215
Crime Stoppers	(800)422-JAIL
WB Regional Medical Center	(989)345-3660
Ogemaw Commission on Aging	(989)345-3010