

YOUR RIGHTS DURING PROSECUTION

Under the Crime Victim's Rights Act of 1985, you have the right to:

- Be present during the entire trial unless you are to be called as a witness.
- Be free from threats or acts of discharge from your employer because you are subpoenaed or requested by the court to testify in court.
- Be provided with a waiting area separate from the juvenile, the juvenile's relatives and witnesses, if practical.
- Consult with the prosecuting attorney in order to give your views about the disposition of this crime.
- Receive the name of the person to contact within the Prosecutor's office for information about your case.

ONLY UPON REQUEST

To take advantage of these rights, you **MUST** notify the Crime Victims Rights Unit by completing and returning the Right's Requested Form (enclosed). You **MUST** also keep the Crime Victims Rights Unit informed of your current address and telephone number.

You have the right to:

- Receive notice of any scheduled court proceeding and any changes in that schedule.
- Confer with the Prosecuting Attorney regarding the disposition of the case and if it goes to trial.
- Receive notice if the juvenile escapes custody while awaiting trial.
- Receive notice of the juvenile offender's adjudication and conviction.
- Receive notice of the address and telephone number of the probation department that will be preparing the pre-dispositional investigation report, if ordered.
- Make an oral or written impact statement to the pre-dispositional investigator.
- Make an oral or written impact statement at the disposition hearing.
- Be notified of the time and place of disposition hearing.
- Be notified if an appeal is filed.

YOUR RIGHTS AFTER ADJUDICATION

To take advantage of the following rights, you **MUST** inform the Juvenile Detention Center (if the juvenile offender is incarcerated) or the Family Independence Agency (if the defendant is made a ward of the State) that you want to be notified. You **MUST** also keep the Juvenile Detention Center and the Family Independence Agency informed of your current address.

ONLY UPON REQUEST

You have the right to:

- To receive written notice of the juvenile offender's final disposition.
- To be notified of a scheduled review hearing at which the victim has the right to submit a written statement or make an oral statement or both.
- To be notified of a transfer or pending transfer of the juvenile offender from a secure facility to a non-secure juvenile facility.
- To be promptly notified of the escape of the juvenile offender from a secure detention or treatment facility.
- To receive notification from the court or the Family Independence Agency before the juvenile is dismissed from court jurisdiction or discharged from the Family Independence Agency.

VICTIM ASSISTANCE

We realize being a victim of a crime can be a very difficult time for most people. Victim Assistance is an effort to help crime victims return to their normal way of life. We provide the opportunity for crime victims to express their concerns and problems, and offer help.

Services

- Provide information and help in filing for Michigan Crime Victims Compensation.
- Make referrals to other community agencies for additional assistance.
- Give information on how the criminal justice system works, and case status.
- Attend court at the victim's request
- Provide assistance in completing the Victim Impact Statement for sentencing purposes.
- Provide assistance for the return of personal property.
- Provide information regarding restitution.
- Provide community awareness.

WITNESS ASSISTANCE

Being a victim of crime can also mean being a witness in court. As a witness, you are an important part of the criminal justice system. The Crime Victims Rights Unit hopes to make your court appearance convenient and offer you the support that you will need to be part of a successful prosecution.

Services

- Assist witnesses with problems caused by court appearances as they relate to employers and personal schedules.
- Notify witnesses of delays and dates to appear to testify.
- Place witnesses on stand-by to avoid long waits if possible.
- Offer emotional support while waiting and testifying.
- Expedite payment of witness fees.

Witness Fees

A witness will receive \$6.00 for each half-day and \$12.00 for each full day that he/she is called in to testify. The witness will also be paid 10 cents per mile. These amounts are set by law.

Witness Parking

You may park for \$1.00 (each way) at Park and Ride on North River Road between Gratiot and the Gibraltar Trade Center, at meters around the Courthouse, or pay \$1.00 per hour at the parking structure next to the Administration Building. The Victims Rights Unit cannot pay for parking tickets.

CRIME VICTIMS RIGHTS UNIT STAFF

Johanna Delp Coordinator
Kelly Cosgrove Victim Advocate

We do not discriminate on the basis of race, color, national origin, religion, sex, disability, and age in the delivery of our services. Complaints alleging discrimination can be made to the Chief of Operations in the Macomb County Prosecutor's Office.

VICTIM COMPENSATION

The Michigan Crime Victim Compensation Act was enacted for the purpose of giving financial help to crime victims who are injured or lose income because of a crime. Crime Victims compensation

always pays last. All other public funds and private insurance payments that a person is eligible for or becomes eligible for must be paid and reported to the program before compensation can be considered. The Crime Victims Rights Unit will be able to assist with any questions that you may have regarding that compensation. Applications are available at our office.

Who is eligible to receive Compensation?

- A person who was injured as a direct result of a crime in Michigan.
- A person who was injured while trying to help a crime victim.
- A surviving spouse, parent, child, grandparent, grandchild, brother or sister of a person who dies as a direct result of a crime.
- A Michigan resident who was injured in another state that does not pay compensation for a non-resident.
- A Michigan resident who was injured outside the U. S. by an act of international terrorism.

What kind of financial assistance may be available?

- Injury related expenses that a person must legally pay and other eligible losses that can be proved with supporting papers and other evidence.
- Hospital bills and medical expenses.
- Loss of earnings, rehab and remedial services.
- Counseling for the injured person and family members.
- Replacement services needed because of the person's injury.

When should you file your claim?

- Within one year of the date of the injury.
- Claims for child abuse should be filed within one year of the report to the police and before the child's 19th birthday.
- When the cause of injury is first thought to be accidental or natural and then discovered to be criminal, the claim must be filed within one year of the discovery.
- You do not have to wait until the investigation or the trial is over.
- You do not need a lawyer. If you use a lawyer, it is at your own expense.

What do you have to do to receive Compensation?

- Make a police report within 48 hours after the injury unless there was a good reason for a delay or the injured person is a child.
- Be willing to cooperate with the police and the prosecutor.
- Cannot have committed or be an accomplice to the crime.

Additional Information

- Inmates are not eligible.
- A claim will be rejected if the victim caused the injury or was doing something illegal and dangerous at the time of injury.
- In the case of death, a family member may file a claim. This may include funeral expenses.
- Incomplete applications can result in long delays in claim determination. Most claims will be processed within 4 to 6 months.
- A person must have at least \$200 in out-of-pocket expenses or two continuous weeks' loss of earnings or support. These limits are excused for retired or disabled persons and for emergency room medical exams for rape victims.
- Property loss is not covered.

AN OVERVIEW FOR PROCESSING A JUVENILE CASE

This information is intended to assist you in understanding the procedures and process involved in a juvenile case. Not every case will result in a trial, so not all cases will follow each step.

Individuals violating the law prior to their 17th birthday may be brought into the juvenile justice system. Delinquency cases are not "criminal" matters, although they are based upon behavior that violates a criminal statute. The focus of the Family Court is rehabilitation and treatment.

Following a police investigation which results in the request for charges, a Juvenile Division Assistant Prosecuting Attorney will review all reports submitted by the police to determine whether probable cause exists to warrant court action and intervention. If the prosecutor authorizes a **petition**, it officially charges the juvenile. The petition is then filed with the Circuit Court's Family Division. This officially starts the court process.

The first court hearing following petition authorization and acceptance by the court is known as a **preliminary inquiry**. This hearing is the juvenile equivalent of an adult arraignment. The juvenile is read the charges and constitutional rights. If the juvenile is in court custody the matter of bond will also be addressed at this hearing.

At the preliminary hearing a **pre-trial conference** will be scheduled. The hearing provides the prosecuting attorney an opportunity to discuss all options with the juvenile's family or attorney. Many cases are resolved by way of a plea agreement at this hearing. If the case cannot be resolved it can be scheduled for a bench trial (before a judge or referee), or a jury trial (before a judge). Crime victims and the officer in charge of the case are encouraged to attend to allow the prosecutor to involve those individuals in case resolution.

If the juvenile enters a plea of responsible, or is subsequently found responsible following trial, the juvenile is deemed **adjudicated**. Once adjudicated the juvenile is a court ward, subject to court orders.

Following adjudication the matter is scheduled for **disposition**. A juvenile disposition is akin to an adult sentencing. A juvenile court probation officer will have been assigned prior to adjudication. The probation officer will conduct a background review of the juvenile, and determine recommendations for treatment, services, and further consequence. The probation officer will make those recommendations to the court at a dispositional hearing. The Judge or Referee decides the final terms of the disposition. The Judge has a wide variety of options when imposing the disposition. Those options include:

- Dismiss the juvenile as a court ward with a warning;
- Place the juvenile on a term of probation (usually one year) to be monitored by the assigned probation officer;
- Place the juvenile in foster care subject to the court's jurisdiction;
- Order community service be performed by the juvenile;
- Order placement in a treatment or rehabilitation center for juvenile offenders;
- Order participation in a variety of programs including counseling, school programs, or after-school activities;
- Order the parents or guardians to participate in programs where appropriate, and refrain from conduct harmful to the juvenile;
- Order the juvenile and parents to pay any restitution to the victims of the delinquent behavior;
- Assess fine and court costs consistent with the fine indicated by the statute or ordinance violated.

Crime victims have an absolute right to attend dispositional hearings. Victims must be afforded the opportunity to address the court to explain physical, psychological or emotional harm suffered by the victim. The victim may also request compensation for any economic harm or property damage attributable to the juvenile's behavior. The victim may also request the court impose certain terms of disposition.

SUGGESTIONS TO A WITNESS

Before Coming to Court

- Try to picture the scene of the crime and what just happened, so that you can recall it more accurately when you testify in court.

- If you are going to testify about records, familiarize yourself with them before the trial.
- An appointment may be arranged for you before trial with the Assistant Prosecuting Attorney. This meeting will allow you to discuss the case before trial.

On the Day you are to Come to Court

- Dress appropriately. A neat appearance and proper dress in court is important.
- Bring any records that have been requested or any items that pertain to the case.
- If you have been subpoenaed to court, bring it with you. The subpoena will provide information about when and where to appear.
- Arrive at court on time. Unnecessary delays can be caused when a victim or witness is late in arriving at court.
- Witnesses who are under the influences of drugs or alcohol could be held in contempt of court.
- Conduct yourself in a dignified manner when you are in the courthouse. The trial of a criminal case is a serious matter.

What Happens to a Witness in Court

- As a witness for the State, you may be questioned by the Assistant Prosecuting Attorney and then by the defendant's attorney.
- You may feel during the questioning that your testimony is under suspicion or that your personal motives are doubted. However, the questioning is not meant as a personal attack toward you. It is intended to ensure that all sides of the story are told and to establish the truth.
- The judge is there to assist you if you do not understand a question and to see that you are treated respectfully.

When You are Called to the Stand to Testify

- Always tell the truth.
- You probably will be nervous, as most people are.
- You will be asked to take an oath to tell the truth. Remember the seriousness of this oath the entire time you are answering questions.
- Perjury – telling a deliberate lie under oath – is punishable by imprisonment for up to 15 years. In a capital crime, i.e. murder, perjury is punishable by imprisonment for life or any number of years.
- Listen carefully to the questions. Be sure you understand each question before answering. If you do not understand, ask that the question be asked again or explained.
- Take the time you need to consider the question before answering it.
- If you don't know the answer to a question, just say you do not know.
- Answer the question that is asked and then stop talking. Don't offer information not actually asked for.
- If you are sure of the answer, answer positively. Don't say "I think" or "I guess" when you are certain.
- Sometimes, it is necessary to make an estimate. If you make an estimate, such as what time something occurred, make sure that everyone understands you are estimating.
- The judge and jury are interested only in the facts. Don't give your opinions or your conclusions, unless they are specifically asked for.
- Speak clearly, so you will be heard and your answers can be recorded accurately by the court reporter.
- If an attorney objects to a question, do not begin your answer until the judge tells you to do so.
- Be polite while answering questions. Do not lose your temper with the attorney questioning you.
- If you realize that something you said is not really accurate, immediately tell the judge, so you will be allowed to correct the error. If you realize after you have left the witness stand, tell the Assistant Prosecuting Attorney.
- Do not discuss your testimony with other witnesses without first getting permission to do so from the court.

THE JUVENILE JUSTICE SYSTEM

Important Terms

Adjournment – A delay asked for by the judge or either side. The judge must agree to the delay.

Adjudication - A juvenile court "conviction" from a plea or a trial verdict. If adjudicated on an offense, the court takes jurisdiction of the youth, and can enter a disposition order.

Consent Calendar - An informal probation, usually for first-time offenders. If all probation terms are completed, the court has authority to dismiss the petition; if not, the court can transfer the case to the "formal calendar" for a pre-trial conference, formal plea, trial, etc. In victim rights cases, the court must notify the prosecutor if consent calendar might be approved so the victim can be consulted and the prosecutor can advise the court if he approves. Consent calendar status can be granted over a prosecutor's and/or victim's objection. Full restitution must be ordered to the crime victim(s).

Detention/Treatment - Facilities operated by the Family Court or state where juveniles may be detained pending hearings or following disposition. Juveniles may be placed in detention after disposition for treatment services.

Disposition - The juvenile court equivalent of a sentence in an adult criminal case.

Diversion - An informal supervision of the youth prior to the court authorizing a petition. Consent calendar is a form of diversion.

Jurisdiction - The court's authority to enter orders affecting a delinquent youth up to their 19th birthday.

Motion - Court hearings to answer legal questions.

Petition: Charging document in a juvenile delinquency case that is issued by a prosecutor. It lists the offenses the youth has allegedly committed.

Pre-sentence Report - A background investigation of the juvenile that assists the judge in determining the disposition. The officer conducting this investigation may interview you to assist the judge.

Probation - A sentence that places the offender under the close supervision of a probation officer.

Prosecuting Attorney - The attorney who represents the people of the State of Michigan against a juvenile delinquent.

Restitution - an amount of money set by the Court to be paid to the victim of a crime for property losses or injuries caused by the crime.

Subpoena - a legal order that requires a person to appear in Court to testify as a witness.

Although intimidation of a witness/victim is a rare occurrence, it occasionally does occur. If this should happen, report it to the police or prosecutor immediately!