

# A Victim's Guide to Understanding the Criminal Justice System



The Bartholomew County Prosecutor's Office Victim Assistance Program

Prosecutor: Lindsey Holden-Kay

234 Washington Street

Columbus, IN 47201

Telephone: (812) 379-1670

Fax: (812) 379-1767



## Important Information About My Case

State of Indiana vs \_\_\_\_\_

Cause No. \_\_\_\_\_

### Meetings with Prosecutor's Office

<i>Date/ Time</i>	<i>Purpose</i>

Trial Date \_\_\_\_\_ Trial Time \_\_\_\_\_

### Things I Need to Do:

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Notes:



## Connecting With Community Resources

### *Courthouse*

Bartholomew Co. Prosecutor's Office 379-1670

### *Turning Point*

Turning Point 379-9844

Turning Point Crisis Line 1(800) 221-6311

Turning Point Legal Advocate 812-657-1963

### *Law Enforcement*

Bartholomew Co. Sheriff's Dept. 379-1689

Columbus Police Department 379-5391

### *Legal Resources*

Bartholomew Legal Aid (Civil Cases) 378-0358

**\*\*Contact Indiana's First Call for Help to connect with resources in Bartholomew, Brown, Decatur, Jackson & Scott Counties**

First Call for Help 2-1-1

### **Additional Resources:**

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## Introduction:

At the Bartholomew County Prosecutor's Office, we recognize that being a victim in the criminal justice system can be a difficult journey. The criminal justice system can be confusing and overwhelming to victims and it's not uncommon to feel alone and a little lost. Thus, we have a Victim Assistance Program to support you in your journey.

The goal of our Victim Assistance Program is to provide services to crime victims so that victims have a "voice" in the criminal justice system. We provide information concerning resource referral, crime victim rights, court hearings, compensation, restitution, and victim impact statements. Also, our Victim/ Witness Coordinators can accompany victims to court proceedings and provide emotional support. We encourage you to read this booklet so that you will have an idea of what to expect regarding your case.

We believe any questions or concerns you may have about your case are important and we are willing to talk to you about them. You are welcome to call or make an appointment to come speak with us about these questions or concerns.



## Following a Case Through the Criminal Justice

### System

A criminal case often takes far longer than people expect. In order to better help you understand the process, we are providing the following brief roadmap to show how a case moves through the criminal justice system. If you should have any questions about the status of your case, you are welcome to contact the Prosecutor's Office.



### REPORTING OF THE CRIME

Once the police receive a report of a crime, they begin an investigation that will be used to determine if there is probable cause to believe that the suspect committed

the crime. If the officer finds there is probable cause, then the suspect can be arrested at the scene or a warrant or summons can be requested for the suspect's arrest.



#### **ARREST OF THE SUSPECT**

After being arrested, the suspect may be released after 48 hours or he/she will have the opportunity to bond out of jail. In order to bond out, a suspect must pay 10% of the declared bond or get a surety bond. By paying the bond, a suspect promises that he/she will attend any and all court hearings involving the case. If the suspect does not come to a court hearing, then the court has the right to revoke the bond, to issue a warrant, and/or when finally detained, to keep the suspect in jail until the case has been resolved.



#### **FILING OF CHARGES**

The information compiled by the police about the crime will be given to the Prosecutor's Office. It is the Prosecutor's job to review the information and file any criminal charges—keeping in mind that charges must be proven to a jury or court beyond a reasonable doubt. Once charges are filed, the suspect becomes known as a defendant for the rest of the case.

*\*NOTE: Often the Prosecutor's Office will ask the victim how they would like to see the case resolved. Your opinion is important to us. But, ultimately, only the Prosecutor has the authority to file or dismiss any charges. All crimes are an issue between the State of Indiana—represented by the Prosecutor's Office—and the defendant. Resolution of the case will depend on what these two parties choose to do.*



#### **NO CONTACT ORDERS**

In a criminal case, the state can request that a No Contact Order (NCO) be issued by the court. A NCO is an order by the court prohibiting the defendant from having any type of contact with the victim and/or other persons related to or involved in the criminal incident—including contact through email, phone calls, letters, fax, sign language, or using a friend or relative to send a message or gift. **Even if the victim is**

#### **4. RIGHT TO SAFETY CONSIDERATIONS**

You have the right to have your safety considered when determining release from custody of a person accused of committing a crime against you.

#### **5. RIGHT TO BE HEARD**

You have the right to be heard at any proceeding involving sentencing, a post-conviction release decision, or a pre-conviction release decision under a forensic diversion program.

You have the right to make a written or oral statement for use in preparation of the presentence report.

#### **6. RIGHT TO SEEK CIVIL REMEDIES**

You have the right to pursue an order of restitution and other civil remedies against the person convicted of a crime against you.

#### **7. RIGHT TO KNOW YOUR RIGHTS**

You have the right to be informed of your constitutional and statutory rights as a victim.

**\*\*These rights have been taken from IC 35-40-5.**

counseling. Additional information about the compensation program can be given to you by the Victim/ Witness Coordinators at the Prosecutor's Office. **If you believe you are eligible for compensation, you must notify a Victim/ Witness Coordinator and begin the application process ASAP because the application must be submitted via certified mail within 180 days of the crime.**



## Your Rights as a Victim:

### 1. RIGHT TO FAIR TREATMENT

You have the right to be treated with fairness, dignity, and respect; and free from intimidation, harassment and abuse; throughout the criminal justice process.

### 2. RIGHT TO INFORMATION

You have the right to be informed, *upon request*, when a person who is accused of committing; or convicted of committing; a crime perpetrated directly against you is released from custody or has escaped.

You have the right to information, *upon request*, about the disposition of the criminal case involving you as a victim or the conviction, sentence, and release of a person accused of committing a crime against the victim.

### 3. RIGHT TO CONFER WITH PROSECUTOR'S OFFICE

Upon request, you have the right to speak with a representative of the Prosecuting Attorney's Office

- after a crime committed against you has been charged;
- before the trial of the crime committed against you;
- and before any disposition of a criminal case involving you.

However, this right does not include the authority to direct the prosecution of the criminal case involving you as a victim.

**the one who initiates contact with the defendant, the defendant is in violation of the NCO.** Additional criminal charges could be filed against the defendant because of the violation.

If the defendant violates the NCO we ask that you please write down any details about the contact—including the method of contact, the time and date, and any witnesses to the contact. In addition, you need to notify the police of the contact and call the Prosecutor's Office ASAP. It may be possible that additional charges will be filed against the defendant for violating the NCO, or the defendant may have to go to jail, or the NCO may be modified.

As a victim, you need to keep a copy of the NCO with you at all times. In addition, the Prosecutor's Office will send a copy of the order to the Sheriff's Department in your home county. If you have any questions about the order please contact the Victim/ Witness Coordinators at our Office.

*\*Note: Only the Prosecutor or a judge can dismiss or modify a NCO.*



### INSUFFICIENT EVIDENCE

In some cases, the victim is contacted by the Prosecutor's Office and informed that charges will not be filed due to insufficient evidence. As a victim this can be very confusing and frustrating. You know that the crime happened and it's hard to understand how there cannot be enough information to file charges. There was a crime and you were a victim—so why isn't this enough?

The United States criminal justice system requires that there be enough evidence to convict the defendant *beyond a reasonable doubt*—even though persons are arrested based on probable cause (a lower standard). This means that the Prosecutor's Office must believe there is enough evidence to prove to a judge or jury that the defendant did commit the crime.

Furthermore, in order to prove the case, the Prosecutor is limited to using evidence that is admissible in court. In the United States, all defendants are entitled to fair trials; and to ensure this happens, the court has developed rules regarding what evidence can be used (or admitted) into court. Sometimes not all of the evidence in your case will be admissible in court. If there is not enough **admissible** evidence to prove beyond a reasonable doubt that the defendant committed the crime, then the Prosecutor will not be able to file charges.

 **HEARINGS**

First, there will be an Initial Hearing at which the defendant enters a plea of guilty or not guilty. If the defendant decides to plead not guilty, then the court sets dates for the pretrial and trial proceedings. Note that it is very common for defendants to initially plead not guilty to afford themselves the opportunity to speak with, or have their attorney speak with a prosecutor at a pretrial conference. The Pretrial Conference is a court proceeding during which the Prosecutor and the defendant’s attorney meet with the judge to discuss the progress of the case, dates, evidence, and any other relevant matters. As a victim you do not have to attend a pretrial conference **unless you have received a subpoena**. The Trial will be set for a date that is about 4-6 months from the date of the Initial Hearing.

Hearing dates may be changed due to conflicts in schedules, unforeseeable circumstances, and other reasons. It is essential that the Prosecutor’s Office have accurate information regarding how to contact you so they can notify you of hearing dates and schedule changes.

 **DISCOVERY AND DEPOSITIONS**

Following the Initial Hearing, the Prosecutor and the defense attorney will start the discovery process where they share information about the case.

You may be subpoenaed to provide testimony about what happened in a tape recorded deposition. A deposition is an informal hearing that usually takes place in the Prosecutor’s Office. The defense attorney will ask you questions and your answers

<b>FELONIES</b>		
<i>Most Serious Crimes</i>	<i>Range of Prison</i>	<i>Examples</i>
Murder	45-65 years	Murder
A Felony	20-50 years	Rape with a Deadly Weapon
B Felony	6-20 years	Residential Burglary
C Felony	2-8 years	Burglary of Non-Residence
D Felony	6 months- 3 years	Battery on a Child, Theft

<b>MISDEMEANORS</b>		
<i>Less Serious Crimes</i>	<i>Range of Jail</i>	<i>Examples</i>
A Misdemeanor	Up to 1 year	Battery with Injury
B Misdemeanor	Up to 6 months	Battery without Injury
C Misdemeanor	Up to 60 days	Minor Consuming Alcohol



**Crime Victims Compensation**

If you are a victim of a violent crime, you and your family may be eligible to receive compensation to help pay for expenses that result from the crime. These expenses may include medical and funeral costs, lost wages, loss of support, and psychological

**Probable Cause:** standard under which a police officer has a right to make an arrest. A reasonable belief that a person has committed a crime.

**Preponderance of the Evidence:** level of evidence needed to prove a civil case. It is usually described as meaning it is “more likely than not” to be true.

**Continuance:** a motion made by the parties (defense and/or Prosecutor) to conduct the court proceeding at another time. It is usually made by a party that has a schedule conflict that interferes with the proceeding, or by a party that needs more time to prepare the case.

**Protective Order:** a civil order for protection (civil version of a criminal No Contact Order) filed with the Clerk’s Office. If the defendant violates this order, then he/she has committed the crime of Invasion of Privacy and can be criminally prosecuted. The victim also has civil options available—such as taking the defendant to court in a civil suit.

**Subpoena:** an order by the court requiring your presence at a court proceeding or a deposition. If you receive a subpoena, you must obey it or you can be held in contempt of court.



## Felonies v. Misdemeanors

All cases are categorized as either a felony or a misdemeanor. A felony is a crime for which the defendant can be sentenced to one or more years in **prison**. A misdemeanor is a crime for which the defendant can be sentenced to no more than a year in the local county **jail**. The following charts provide you with a brief overview of the differences between them.

are recorded. The Deputy Prosecutor assigned to your case will be with you during the deposition. The purpose of a deposition is to (a) get background information on you and/or your relationship with the defendant, (b) find out what you know about the case, (c) examine any possible defenses in the case, (d) make an account of the victim/ witness’s story so it can be used to dispute the credibility of the witness if the story should be changed later, and (e) preserve the witness’s testimony so that it will be available in case the witness cannot come to court.

*\*Note: If you receive a SUBPOENA then you must attend the court hearing, deposition, and/or trial.*



## PLEA AGREEMENTS

Before the trial date, the Prosecutor will offer the defendant a plea agreement in the majority of cases. These are not “deals” or “bargains.” They are offers to resolve cases based upon the circumstances and seriousness of the incident, the defendant’s background, and the public interests. In addition, they ensure that a defendant acknowledges responsibility for the crime and that any necessary consequences and/or treatment can be given; and, they allow the victim to avoid having to testify at trial.

If the Prosecutor makes a plea agreement, you will be notified about the agreement if you remain in contact with us. This provides you an opportunity to express any thoughts or concerns you may have about the agreement. The Prosecutor will then take your feedback into consideration in making a decision. However, the final decision about a plea agreement will belong with the Prosecutor.



## TRIAL

If the defendant accepts the plea agreement there will not be a trial. But, if the defendant rejects the State’s offer the case will proceed to either a bench trial or jury trial. Every defendant has the right to a jury trial, but a defendant can request to have a bench trial.

A bench trial is one in which the judge listens to the evidence in the case and then makes a ruling of guilty or not guilty.

A jury trial is one where a jury (of either 6 or 12 people) listens to the evidence and determines if the defendant is guilty or not guilty.

It is vitally important that you stay in contact with the Prosecutor's Office. Often, the date and time of the trial will change due to a continuance based on circumstances or court congestion. In addition, the Prosecutor will probably want to meet with you and prepare you for the trial. If you have any questions about the trial process, please contact a Victim/ Witness Coordinator at our Office.



## RESOLUTION OF THE CASE

There are several ways in which a case can be resolved. First, a defendant might plead guilty. Second, the defendant might go to trial and be found either guilty or not guilty. Third, the Prosecutor might dismiss the case.

After the defendant is found guilty, he/she is sentenced by the judge. When determining a sentence, the judge takes a lot of factors into account, such as prior criminal arrests and convictions, seriousness of the offense, victim impact statements and public interests.

The sentencing hearing is an opportunity for a victim to express how you have been affected by the crime. As a victim, you have the right to make a Victim Impact Statement before the court regarding the thoughts and feelings you have concerning your case. You are not required to make a statement, but some victims find it to be helpful in the healing process. This statement can be done verbally, or if you would prefer, you can write out a statement and read it in court or have it read in court, or you can submit it to the court for consideration.

As a condition of sentencing, the defendant may have a sentence that includes

- Time in jail or prison
- House arrest, electronic monitoring, work release, community corrections, or probation
- Community service
- Restitution to the victim (see next section)
- Court costs and fines
- Treatment or counseling

If the defendant is found not guilty, then this particular case is ended and criminal charges cannot be filed again for this particular case.



## VICTIM RESTITUTION

Many victims experience some type of financial loss as a result of the crime committed against them—such as physical injuries, damage to property, or loss of property. In many cases, you can provide proof of this loss to the court and the court *may* order the defendant to pay restitution if he/she is found guilty. If you believe you are entitled to restitution, please speak to a Victim/ Witness Coordinator about the matter.



## Criminal Justice System “Lingo”

The criminal justice system has a language of its own. As with any new language, many victims find it to be complicated and sometimes hard to follow. Therefore, we are providing a quick guide for your reference.

***Beyond a Reasonable Doubt:*** level of proof necessary to convict a defendant in a criminal case. In essence, it refers to a firm belief that the defendant did commit the crime. It does not require 100% certainty—rather, you only need the absence of any reasonable (i.e. possible, plausible, or believable) doubts.