

VICTIM/WITNESS INFORMATION FOR CRIMINAL PROSECUTION



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THE VICTIM/WITNESS PROGRAM

The victim/witness program of the Finney County Attorney's Office is designed to answer questions and provide assistance to you in dealing with the criminal justice system. This pamphlet contains basic information with an explanation of steps that are involved in a typical criminal case and notice required pursuant to K.S.A 22-3436.

Stages of a Criminal Case
Crime committed/reported
Investigation
Suspect Arrested
Probable Cause Hearing
 1st Appearance
 Case Management
Preliminary Hearing
(Felony cases only)
 Arraignment
 Trial
 Sentencing

All stages of this process are subject to continuation.

*Plea hearings may be scheduled if plea negotiations have been entered in to.

*If you are seeking restitution for damages you must submit proof of loss to the Victim/Witness Coordinator.

*Notices of all hearings will be sent to victims if we have current addresses. It is not required that you attend all hearings unless you have a subpoena.

What are the stages and how are you involved?

Crime Committed/Reported: Once a crime is reported, law enforcement officers begin an investigation. Law enforcement officers may either arrest a suspect on "probable cause" or present all reports to the County Attorney's office and request a warrant for the suspect's arrest.

Suspect Arrested: Whether arrested on a warrant or on "probable cause", defendants are entitled to bail. The amount of bail is determined by the court (normally at the probable cause hearing) and may be posted by cash, surety or, if granted by the judge, bond. Bail is used to assure a defendant's appearance in court. It may be a condition of bond that the defendant not contact the victim(s) or witness(s).

1st Appearance: At the first appearance the defendant is informed of the charges against him or her, a lawyer is usually appointed, and a second appearance date is set.

Case Management: At the case management a date is set for the trial (misdemeanor) or the preliminary hearing (felony).

Preliminary Hearing: The purpose of a preliminary hearing is for the judge to determine if there is enough evidence to require the defendant to stand trial. The state must establish "probable cause" that the defendant committed a felony, and you may be subpoenaed as a witness. Since this is not the trial, normally not all witnesses are requested to appear.

Arraignment: When a defendant is bound over for trial following a preliminary hearing, a date for arraignment is set. The purpose of arraignment is to take the defendant's plea and to set a date for trial. No witnesses are subpoenaed to appear in court. An arraignment in a misdemeanor case can also be the first appearance.

Trial: The trial of a felony offense is to a jury. The trial of a misdemeanor may be to a jury or a judge. If you are a necessary witness for the trial you will receive a subpoena which tells you when and where to testify.

Sentencing: If the defendant is convicted of the crime, the court will set a date for sentencing. Normally witnesses are not called to testify at sentencing and you will not receive a subpoena. Your views will be presented to the court if you have completed a victim impact statement

(available at the county attorney's office). You are encouraged to complete this form. You do have a right to address the court at sentencing.

EACH OF THE COURT PROCEEDINGS ARE HELD IN OPEN COURT UNLESS OTHER WISE ORDERED BY THE JUDGE. ALTHOUGH NOT SUBPOENAED TO APPEAR, YOU MAY ATTEND ANY OR ALL STAGES OF THE PROCESS.

TIPS FOR TESTIFYING IN COURT

1. Simply **TELL THE TRUTH**. No one remembers everything, and if you do not know the answer to a question, just say that you do not know or you do not remember.

2. **LISTEN** carefully to the question and answer slowly and clearly.

3. If you do not understand a question, ask that it be repeated.

4. Answer only the questions asked. Do not offer additional information or opinions unless asked.

5. If an attorney objects to a question wait until the judge indicates whether you should give an answer.

6. Remember to dress appropriately.

7. It is natural to be nervous. Take a few deep breaths to calm yourself and try to avoid nervous mannerisms.

FREQUENTLY ASKED QUESTIONS

Q. Will I receive compensation for appearing as a witness?

A. By statute you will receive a \$10 per day witness fee plus mileage if you were subpoenaed out of town.

Q. What if I am threatened as a witness?

A. Any attempt to prevent or dissuade a witness from testifying is a violation of the law. Report any such incident immediately to the police and the prosecuting attorney.

Q. Should I talk to the defense attorney?

A. That is strictly your decision, you

may, but have no legal obligation to talk to the defense attorney.

Q. Can I watch the trial?

A. Unless all witnesses are sequestered, you may watch the trial. You should not discuss your testimony with other witnesses.

Q. Can I receive compensation for losses that I suffered as a result of the crime?

A. Various means are available to assist you defendant on the type of loss etc.. Discuss this with the Victim/Witness Coordinator at the County Attorney's Office.

Q. When can I get my property back?
A. All property will be released as soon as possible, however, under usual circumstances it cannot be released until it is no longer needed as evidence.

Q. What is a CONTINUANCE?

A. For a number of reasons if is frequently necessary to change the date of a court appearance. The County Attorney's Office will make every effort to notify you by telephone if the court date has been continued until a later date. If the case is continued, you will receive a new subpoena telling you the new date.

Q. What if I move or change jobs during the proceedings?

A. ALWAYS NOTIFY THE COUNTY ATTORNEY'S OFFICE OF ANY CHANGES IN ADDRESS, TELEPHONE NUMBER, OR EMPLOYMENT IMMEDIATELY SHOULD THEY NEED TO CONTACT YOU.

KANSAS STATUTES STATE:

74-7333. Bill of rights for victims of crime. (a) In order to ensure the fair and compassionate treatment of victims of crime and to increase the effectiveness of the criminal justice system by affording victims of crime certain basic rights and considerations, victims of crime shall have the following rights:

(1) Victims should be treated with courtesy, compassion and with respect for their dignity and privacy and should suffer the minimum of necessary

inconvenience from their involvement with the criminal justice system.

(2) Victims should receive, through formal and informal procedures, prompt and fair redress for the harm which they have suffered.

(3) Information regarding the availability of criminal restitution, recovery of damages in a civil cause of action, the crime victims compensation fund and other remedies and the mechanisms to obtain such remedies should be made available to victims.

(4) Information should be made available to victims about their participation in criminal proceedings and the scheduling, progress and ultimate disposition of the proceedings.

(5) The views and concerns of victims should be ascertained and the appropriate assistance provided throughout the criminal process.

(6) When the personal interests of victims are affected, the views or concerns of the victim should, when appropriate and consistent with criminal law and procedure, be brought to the attention of the court.

(7) Measures may be taken when necessary to provide for the safety of victims and their families and to protect them from intimidation and retaliation.

(8) Enhanced training should be made available to sensitize criminal justice personnel to the needs and concerns of victims and guidelines should be developed for this purpose.

(9) Victims should be informed of the availability of health and social services and other relevant assistance that they might continue to receive the necessary medical, psychological and social assistance through existing programs and services.

(10) Victims should report the crime and cooperate with law enforcement authorities.

(b) As used in this act, "victim" means any person who suffers direct or threatened physical, emotional or financial harm as the result of the commission or attempted commission of a crime against such person.

(c) As used in this act and as used in article 15 of section 15 of the Kansas constitution, the term "crime" shall not

include violations of ordinances of cities except for violations of ordinances of cities which prohibit acts or omissions which are prohibited by articles 33, 34, 35 and 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 53, 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto, and as provided in subsection (d). (d) The governing body of any city which has established a municipal court shall adopt policies which afford the rights granted to victims of crime pursuant to this act and pursuant to article 15 of section 15 of the Kansas constitution to victims of ordinance violations specified in such policies.

(e) Nothing in this act shall be construed as creating a cause of action on behalf of any person against the state, a county, a municipality or any of their agencies, instrumentalities or employees responsible for the enforcement of rights as provided in this act.

(f) This section shall be known and may be cited as the bill of rights for victims of crime act.

22-3436. Prosecuting attorney; information to victims; right to be present at certain hearings. If a defendant is charged with a crime pursuant to articles 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6421, and amendments thereto;

(a) The prosecuting attorney, as defined in K.S.A. 22-2202, and amendments thereto, shall: (1) inform the victim or the victim's family before any dismissal or declining of prosecuting charges; (2) inform the victim or the victim's family of the nature of any proposed plea agreement; and (3) inform and give notice to the victim or the victim's family of the rights established in subsection (b);

(b) The victim of a crime or the victim's family have the right to be present at any hearing where a plea agreement is reviewed or accepted and the parties may submit written arguments to the court prior to the date of the hearing.

The Kansas Crime Victims Compensation law provides victims of violent crimes with compensation for loss of earnings and out-of-pocket expenses for injuries sustained as a direct result of a crime against their person. Out-of-pocket means reasonable medical care or other services necessary as a result of the injury. Other services include mental health counseling and partial funeral, burial, or cremation expenses. A defendant or legal representative of a victim who has met death as a result of a violent crime, may apply on behalf of the victim. Victims or their representatives, can apply for compensation by filing a Declaration of Eligibility Form with the Crime Victims' Compensation Board. The form is available in the Finney County Attorney's Office or by contacting the Crime Victims' Compensation Board in Topeka, KS at (785)296-2359.

As a victim or witness of a crime, your assistance is vital to our system of criminal justice. This system is absolutely dependent upon your cooperation. Without your help in reporting and testifying about crime, it would not be possible to successfully prosecute criminals. Crime is a community concern, and only through a cooperative effort can we make our community the best that it can be.

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