

# Victim/Witness Rights and Duties



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**Melissa L. Gilliam**

Prosecuting Attorney, St. Francois County

## Our Pledge to You

If you are reading this, it is likely because you are the victim of a crime. It is a troubling and difficult experience to be victimized, but please remember that it is not your fault.

Victims and witnesses have certain constitutional rights, and as representatives of the citizens of St. Francois County, it is our purpose to protect those rights.

To help you better understand your criminal justice system, we've prepared this booklet to answer the most often asked questions and concerns. If you have any questions not answered by this booklet, please feel free to call the attorney handling your case. Even if they are unavailable, we will find someone to assist you.

Very truly yours,

A handwritten signature in blue ink that reads "Melissa L. Gilliam". The signature is written in a cursive, flowing style.

Melissa L. Gilliam

# Victim/Witness Services

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***St. Francois County Prosecuting Attorney's Office***

*573-756-1955 or 573-431-6505, extension 7*

***Division of Family Services & Child Abuse***

*Hotline: 1-800-392-3738*

***Crime Victim Compensation Program:***

*1-800-347-6881*

***Missouri Consumer Fraud Hotline:***

*1-800-392-8222*

*[ago.mo.gov/divisions/consumerprotection.htm](http://ago.mo.gov/divisions/consumerprotection.htm)*

***MOVANS:***

*1-866-5-MOVANS (1-866-566-8267)*

*[www.vinelink.com](http://www.vinelink.com)*

***ACCESS TO INTERNET?***

*You can now review status of court cases online.*

*[www.courts.mo.gov/casenet](http://www.courts.mo.gov/casenet)*

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# Common Questions About Your Criminal Justice System



## **WHAT IS A SUBPOENA?**

A subpoena is an official court order requiring you to appear at the time and place it specifies — usually to provide testimony. You should have your subpoena with you when you appear. Failure to appear constitutes contempt of court. If you should move or change your telephone number after receiving a subpoena, please contact the Prosecuting Attorney’s Office immediately.

## **WHAT HAPPENS TO THE PERSON ACCUSED OF A CRIME?**

After arrest, the defendant (accused person) is arraigned in Associate Circuit Court. The purpose of the arraignment is:

1. To review the amount of bail
2. To furnish the defendant with a copy of the charge
3. To see that legal counsel is provided either by the defendant or the court, and;

Under Missouri Court Rules, the preliminary hearing must be set within a reasonable time after the arraignment. At times during a proceeding, either the defendant, the Prosecuting Attorney's Office or the court, on its own motion, may seek a continuance (a delay) of the hearing for a number of reasons.

## **HOW ARE WITNESSES CALLED?**

The Prosecuting Attorney's Office will attempt to reach you by telephone. If you request, we will send you a subpoena to make your appearance easier. The subpoena will specify the time and place for you to appear and what, if anything, you should bring. Should any continuances (delays) of your case occur, you will be notified as soon as we become aware of the delay.

## WHAT IS THE PURPOSE OF BAIL?

Bail is cash or a security bond to assure the defendant appears in court at the next scheduled hearing. The amount of bail is set by the court and may vary depending on a number of factors including the seriousness of the offense or offenses charged. There are two primary considerations in setting bond:

1. Safety of the crime victims, witnesses, and the community.
2. To ensure the defendant appears in court when scheduled.

## CAN I CHANGE MY MIND ABOUT PROSECUTING OR TESTIFYING?

A crime committed against any person is prosecuted as a crime against the state. For this reason, the court can compel testimony of a victim or witness to a crime. Should you have any reluctance about testifying in a case, please discuss your concerns with the Victim/Witness Advocate or the prosecutor handling the case. They will try to help with any problems, doubts or questions you may have.



## **WHAT IS AN ARREST WARRANT?**

An arrest warrant is an order signed by a judge, authorizing the police to arrest a person believed to have committed a crime.

## **CAN I BE COMPENSATED FOR LOSSES I SUFFERED AS A VICTIM?**

Your insurance may provide coverage for personal injury or property loss due to a crime. If your report of a crime results in the offender being placed on probation or parole, the court may order the offender to pay for the cost of your injuries, damages or loss. An order does not guarantee payment and many times, is not possible. However, this office will make every effort to see that payment is made when ordered.

The Victim Compensation Act may provide monetary compensation for some uninsured out-of-pocket losses as a result of personal injury.

(See back page for more information.)

## **WHAT'S IN IT FOR ME?**

First and foremost, you will have done what you can to hold a criminal offender accountable. You may, at times, feel frustrated or discouraged because the process of justice does take time. The system may seem slow to you, but some of the delays you may encounter are part of the system that protects your rights if someone accuses you of a crime.



## **WHAT IF SOMEONE THREATENS ME TO DROP THE CHARGES?**

Only on extremely rare occasions are witnesses threatened. If anyone has threatened you in connection with the case in which you are involved, either in or out of court, he/she may have committed a new crime. Immediately contact your local Police Department or Sheriff's Office and report the threat and then tell the Prosecuting Attorney handling the case.

## **WHAT TO DO IF CONTACTED BY THE DEFENDANT**

Contact law enforcement immediately — your local police department if you live in a municipality or St. Francois County Sheriff's Department if you live in the county. Inform the officer that you are a victim or witness in a pending case. Report to them that the defendant has contacted you. Then, notify our office at 573-756-1955.

## **WHAT IF THE DEFENSE ATTORNEY CONTACTS ME ABOUT THE CASE?**

Most frequently, victims and witnesses ask to have someone from the Prosecuting Attorney's Office be present. You may be contacted by the defense attorney or a private investigator hired by the defense attorney. You have the right to refuse to speak with them at all, if you so desire.

## **THE BASIC RIGHTS OF ALL VICTIMS AND WITNESSES:**

- 1. To be present and allowed in court at any hearing to which the defendant has a right to be present.**
- 2. Upon request, to be notified of all hearings or court appearances on the case.**
- 3. To appear at sentencing and make a statement.**
- 4. To receive restitution when possible.**
- 5. To be provided a secure waiting area for court.**
- 6. To be informed of financial assistance and social services available.**
- 7. To be informed if the defendant is released or escapes.**

## **WHAT IS A DOCKET CALL?**

A docket call is a short hearing held in a pending case. At this hearing, the prosecutor, the defendant's attorney and defendant are required to be present. The judge asks what the status of the case is and what remains to be done. If the case is ready for final disposition a plea or trial date will be set. If an additional docket call is needed, one will be scheduled.

## **WHAT IS A PRELIMINARY HEARING?**

A preliminary hearing applies only to felony cases. Testimony is taken under oath and the judge, defendant and defendant's attorney, the prosecutor and any victims or witnesses subpoenaed are present.

At the preliminary hearing, the Prosecuting Attorney has to establish a reasonable belief that:

- A crime has been committed in St. Francois County, and;
- The defendant may have committed the crime.

During this proceeding, the defendant's attorney may cross-examine the state's witnesses and present evidence, if he/she wishes. Once probable cause is established, the judge will order the defendant to appear in Circuit Court. In most cases, the defendant will not demand the preliminary hearing and the case will then be sent directly to Circuit Court.

## **WHAT DOES A VICTIM OR WITNESS DO IN A PRELIMINARY HEARING?**

If you are called or subpoenaed to testify at a preliminary hearing, the prosecutor will ask that you take the witness chair and, under oath, answer questions. You will talk with the Prosecuting Attorney before the hearing about what type of questions will be asked.

## **ARE WITNESSES PERMITTED TO BE IN THE COURTROOM BEFORE AND AFTER TESTIFYING?**

Victims have a constitutional right to be in court. As a witness, you may watch the proceedings unless excluded from the courtroom by the judge. In any event, witnesses should not discuss their testimony with each other.



## WHAT IS A DEPOSITION?

A deposition is the recorded testimony of a witness, given under oath in the presence of both the defense attorney and the prosecuting attorney. The purpose of taking a deposition is to determine and preserve the testimony of a witness, but does not mean you won't have to testify at trial.

## WHAT HAPPENS IN A TRIAL?

In a trial, the prosecutor presents the case for the state. The Prosecuting Attorney has the burden of proving beyond a reasonable doubt that the defendant did commit the alleged crime. The defendant may present evidence, although he or she has no obligation to do so. The trial may be either before a judge, or before a jury. The defendant makes that choice.

## HOW AND WHEN IS SENTENCING DETERMINED?



A defendant who has been found guilty or has pleaded guilty is sentenced by the judge. Using the state statutes as a guideline, (sentences are expressed in terms of minimums, maximums and other options), the judge sentences the defendant in a manner appropriate to the crime and other circumstances related to the case.

## WHAT SHOULD THE PROSECUTING ATTORNEY DO FOR YOU?

- We work to minimize the inconvenience to you. In recent times, the defendant's rights have been emphasized while neglecting the rights of victims and witnesses. We want to help prevent that.
- We work to help you get through a difficult time that is not your fault. Tell us how we can help you.

## COMING TO COURT

If you are called or subpoenaed by the Prosecuting Attorney's Office, please arrive at the Courthouse at least 30 minutes before the time of the scheduled case.

As soon as you arrive, please report to the Prosecuting Attorney's Office — on the North side, first floor of the St. Francois County Courthouse.



## **THE ST. FRANCOIS COUNTY PROSECUTING ATTORNEY'S OFFICE PROVIDES:**

- Speedy return of recovered personal property when the case is finalized.
- Notification of dates and times of all court appearances and hearings of which you have asked to be notified.
- Notification of continuance of the case as soon as we become aware of them.
- Notification of the final disposition of the case.
- Transportation arrangements if unable to arrange your own.
- Personal escort service from the reception room directly to the court room.
- Referral to appropriate social services agencies if needed.
- Employer intervention, if necessary.
- Waiting room.
- Sentencing notification.

## VICTIM'S COMPENSATION FUND

In Missouri, it is possible for persons who are victims of crime to be reimbursed for certain expenses they have incurred because of the crime. Your cooperation with law enforcement is essential in order to be eligible for filing a claim.

## SOME ELIGIBILITY CONDITIONS

- The crime must be reported to law enforcement within 48 hours of its occurrence. In the case of minors, it must be reported within 48 hours of discovery.
- The application must be filed within two years of the crime date.
- The victim cannot have two felony convictions within a 10-year period, one of which involves illegal drugs or violent crime.
- The victim must cooperate with law enforcement and prosecution.

## HOW DO I FILE A CLAIM?

If you want to file a claim, applications may be obtained by contacting the following offices, or by visiting their corresponding websites:

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### ***St. Francois County Prosecuting Attorney***

*Victim/Witness Services*

*St. Francois County Courthouse*

*1 N. Washington St., Suite 101*

*Farmington, MO 63640*

*573-756-1955*

### ***Crime Victim's Compensation Program***

*P.O. Box 1589*

*Jefferson City, Missouri 65102-1589*

*573-526-6006*

*1-800-347-6881*

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