

OFFICE OF THE PROSECUTING ATTORNEY

- VICTIM/WITNESS SERVICES -

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We understand that being a victim of a crime can be very difficult for most people. Our staff are ready to guide you through the process. We expect that you may have some questions about the court process. Some of your questions are answered in brochures that you will receive. The following will answer some questions about how the court process works.

HOW DOES THE SYSTEM WORK?

First, an Assistant Prosecutor reviews the police report and decides whether to charge the defendant with a crime. If they are charged, the defendant will appear in front of a judge for an arraignment. At the arraignment, the defendant enters a plea of guilty or not guilty. The judge will then set the bond amount and any conditions at the arraignment. If this is a felony case, there will be a preliminary examination date set.

The next time the defendant comes to court will be for a pretrial or preliminary conference with an Assistant Prosecutor. They will discuss the facts of the case and any legal issues. The defendant may enter a plea or the case will be set for a trial. A trial can be either by jury or in front of a judge.

CAN I STILL SEE HIM/HER?

When the defendant first goes in front of the judge, they will be arraigned and the judge will set bond. Sometimes, the judge will order that the defendant have no contact with you or members of your family until the case is settled. The purpose of this bond condition is to allow a "cooling-off" period and to protect YOU.

If the judge issues this bond condition, the defendant is not to contact you at home or at work and not to contact you by phone, letter, e-mail, text message or through someone else. If the judge sets this bond condition, do NOT contact the defendant and encourage them to see you. If the defendant is found with you, they can be arrested on a bond violation and serve up to 30 days in jail. If the defendant violates

this order by contacting you, notify the police immediately.

If the defendant pleads guilty and there is a no contact order for probation, what does that mean? It means that until they start counseling and you personally request contact, they cannot contact you (just like the bond condition). Often, we request "no contact" as part of the plea. Why? The goal is to give you the power to decide when or if you want to see the defendant again. If you never want to see them again, you are protected by the probation condition. If you want to give them a chance to start counseling, you can decide when you want the condition lifted. You will have to personally visit the defendant's probation officer to request that this condition be lifted.

CAN I FIND OUT WHEN THE DEFENDANT IS RELEASED FROM JAIL?

If you are worried about the defendant being released from jail, please contact your Victim Advocate at the Prosecutor's Office and they will make arrangements to have you contacted when the defendant is released from custody. You must have a current telephone number where you can be reached or a message can be left for you.

WHEN DO I GET TO SPEAK?

If the judge will allow it, you may comment on bond conditions at the arraignment. In fact, you may be present at all court hearings, but might not get to talk to the judge. If the case goes to trial, you will be subpoenaed to testify and will be able to give testimony to the judge and/or jury about what happened.

If the defendant pleads or is found guilty, you have a right to speak to the judge about sentencing. You may do that in writing, in person, or through your Victim Advocate at the Prosecutor's Office. Sentencing can be adjourned for 10 days to allow you time to make those comments. Remember, you may contact the Prosecutor's Office about the case at any time.

WILL THE DEFENDANT GO TO JAIL?

It depends. There is no easy answer to this question. If the defendant has never been convicted of an assaultive crime, they will probably be eligible for the diversion program. Under the diversion program, they will need to go to counseling and stay out of trouble while on probation. If they are successful, the charges will be dismissed from their public record. If they are unsuccessful, it will be on their permanent record.

If the defendant has a history of violent behavior, our Office may recommend some jail time. We may recommend that jail be held "subject to review", which means that the defendant will not be placed in jail unless they violate probation. Other times, we will ask for jail time initially if we think the violence was severe enough or the defendant has a history of acting out violently. There are alternatives to jail, including the Kalamazoo Probation Enhancement Program (K-PEP) and electronic tether.

WHAT KIND OF COUNSELING WILL THE DEFENDANT GET?

Our Office will ask that the defendant go to either a domestic violence or anger management program. There are two domestic violence classes; one is 26 weeks and the others are 40 or 52 weeks. If the defendant is a repeat offender, our Office will ask they attend the longer counseling programs. If there was alcohol and/or drugs involved during the assault, we will most likely ask that the defendant have an assessment to see if there is a problem and if so, ask that they attend counseling for that also.

Will the court order the victim to go to counseling? The only person the court has under its jurisdiction is the defendant. That means they can order the defendant to go to counseling, not you. However, we do recommend that you seek counseling. It is important that you, too, understand whether you want to continue the relationship. The YWCA offers free counseling to victims of domestic violence.

HOW MUCH DOES THIS COST THE DEFENDANT?

There is a cost for probation, which depends on how many months the defendant is on probation. There is a cost for counseling. However, if the defendant has private medical insurance, it is suggested that they ask their probation officer to see if individual counseling is acceptable. The costs of probation, fines, and court costs are payable over the term of probation.

DO I HAVE TO TALK TO THE DEFENDANT'S ATTORNEY?

You are technically a witness in this case and are not required to talk to anyone, but may do so if you want. The choice is up to you. If you have questions about what the defendant's attorney is asking you, contact our Office and we will be glad to speak to you.

WHY CAN'T I JUST DROP THE CHARGES?

It is the Prosecutor who is pursuing this case, not the victim. Many times, the case can proceed without the victim, because there is other evidence that will prove what happened.

Occasionally, the victim asks to drop charges believing they can handle the situation themselves. In some cases, that may be true. Still, it is very difficult to encourage a batterer to seek counseling for anger management and/or substance abuse. They may have issues that they have kept hidden, even from themselves, for many years and are resistant to change. It is necessary that the batterer take responsibility for their actions.

It is our goal to reach not just the person you was hit or pushed, but also to reach out to the children within the household. We believe that by intervening we may begin to prevent them from becoming violent themselves.

WHAT HAPPENS IF I DO NOT SHOW UP TO TESTIFY?

If you are subpoenaed to testify, you are under a court order. If you do not show up, you may be found in contempt of court. This is between you and the court; therefore, what happens next is up to the judge. By law, if found in contempt of court, you could be placed in jail.

Do not presume that the case will automatically be dismissed. Many things could happen; the judge may find you in contempt of court for failing to appear, it could be adjourned and reset for another day, or the case may go ahead without you based on other evidence.

IF I HAVE MORE QUESTIONS, WHOM CAN I CONTACT?

Prosecutor's Office – Victim Services: (269) 383-8677
YWCA Domestic Violence Program: (269) 385-2869