

YOU HAVE THE  
RIGHT .....

You have the right *not* to remain silent.

Anything you say can and will be listened to with dignity, compassion and respect.

You have the right to be informed of your rights as a victim of crime.

You have the right to be present at criminal justice proceedings.

You have the right to receive information about your case.

You have the right to protective measures that enhance your safety.

You have the right to available crime victim services.

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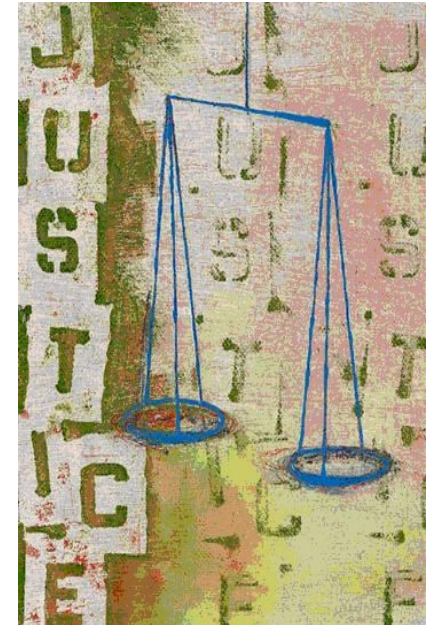


**Custer County Attorney's  
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under the supervision of:**

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## CRIME VICTIM & WITNESS ASSISTANCE



**JUSTICE ISN'T  
SERVED  
UNTIL VICTIMS  
ARE SERVED.**

## MONTANA CRIMINAL JUSTICE SYSTEM

As a crime victim, you will have numerous contacts with the criminal justice system as your case proceeds. This is some of what you can expect during the criminal prosecution of your case, beginning with the investigation stage.

### AS A VICTIM, DO I HAVE RIGHTS?

If you are a victim of a felony crime or a violent misdemeanor crime, Montana law has given you certain rights concerning notification and input into your case. These laws are to assure that you receive fair and proper treatment from law enforcement agencies and prosecutors, to protect the role of victims in the criminal justice process, and to provide a standard of conduct governing the treatment of victims and witnesses in criminal cases.

### WHO WILL HELP ME?

The County Attorney's Victim/Witness Assistant can provide you with the following services: explain how the Court process works and guide you through the criminal justice system; provide counseling, emotional support and guidance in a one-on-one relationship that you deserve; inform you about what is happening in your Court case and when hearings are scheduled; remain with you through the entire Court proceeding and provide you with a secure waiting area during Court proceedings; help you to recover your property held for evidentiary purposes; inform you about compensation available for victims of crime to assist with medical expenses, funeral costs, mental health counseling and wage loss; inform you of social and medical services available in the community to help you deal with the impacts of a crime; assist you in informing your employer that it may be necessary for you to be absent from your place of employment during the prosecution of the case; assist you by explaining to creditors the reason for your serious financial strain as a result of being victimized; explanation of your right to present a statement concerning the effects of the crime on you; seek your opinion regarding appropriate sentence of the offender; provide assistance to obtain an Order of Protection that could protect you from harassment, intimidation or further injuries; and consult with you in order to obtain your views regarding the disposition of the case.

### CAN I GET THE CHARGES DISMISSED?

No, you cannot drop the charges because you are not the one who filed charges. The charges were filed by the County Attorney. It is important for the defendant to realize that he/she must live within the laws of our society and that violent actions against you, or anyone else, have no place in our community. It is especially important that the defendant be held accountable for the crimes committed, and get help, such as counseling or drug/alcohol treatment if needed.

### WHAT PUNISHMENT WILL THE DEFENDANT RECEIVE?

Before a defendant can be punished (sentenced), he must first plead guilty to the charges, or be found guilty by a jury. If the offender is a first time offender he/she will not usually go to prison, unless a violent crime is committed. Sometimes offenders are ordered to counseling, chemical dependency treatment, pay fines, pay restitution, be placed on formal probation, or to a pre-release center. If a defendant receives a probationary sentence, and then fails to comply with the sentencing order, the Judge has the power to send the defendant to jail or prison.

The sentence or punishment a defendant receives is strictly at the Judge's discretion within the range of penalties provided by law. Before pronouncing the sentence, the Judge will know whether the offense is a felony (serious) or misdemeanor (less serious), whether the offense is a violent crime (assault) or a property crime (theft), whether or not a weapon was used, if the offender is an adult or a juvenile, if the offender has a prior criminal history, what impact the crime has had on the victim, and what the victim feels should happen to the defendant. Although the Judge will decide the defendant's sentence, the Judge considers your opinion before making this decision. Any sentencing recommendations or

statements made to the Court by the victim, prosecutor, defense attorney, defendant, or probation officer are only recommendations and the final disposition of the case is left with the Judge, even if there is a plea agreement.

### HOW CAN I KEEP THE DEFENDANT AWAY FROM ME?

While the case is pending, the defendant will be ordered to have no contact with you. Additionally, civil orders of protection are available to certain individuals. If you are eligible, the Victim Assistant can explain the process and assist you in obtaining an Order of Protection.

### HOW WILL I PAY FOR MY MEDICAL BILLS?

You may be eligible to receive benefits from the State Victim Compensation Program. The program provides compensation to innocent victims for injuries suffered as a direct result of the criminal acts of other persons. The benefits may cover crime related expenses for medical costs, lost wages, mental health counseling, loss of support for dependents of deceased victims, funeral and burial expenses. This program does not award benefits for victims of property crimes.

Also, the Court can order the defendant to reimburse you for any expenses incurred because of the crime committed against you, as well as any property damaged or stolen.

### DO I NEED A LAWYER?

The choice (and expense) is yours. Your lawyer, however, cannot participate in the criminal action. You may make the decision to hire an attorney to pursue a civil suit against the defendant if you wish.

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

Yes, defendant's attorney has the right to interview the victim before trial. If you are contacted by the public defender's investigator or defense attorney requesting an interview regarding this criminal case, you have the right to have the County Attorney and Victim/Witness Assistant present during this interview, and the right to pick the date, time, and place that is convenient to you. The defendant will not be there! You can also request the meeting not be taped.

### WILL I HAVE TO TESTIFY IN COURT?

Usually you will only have to testify in Court if the case goes to trial. You would then receive a subpoena (Court order) requiring you to appear at trial and testify. If the case does go to trial, even though you are a witness, you have the right to be present throughout the entire proceeding.

A large percentage of cases are resolved without going to trial because the prosecutor and defendant enter into a plea agreement. You do have the right to be informed of any pending plea agreement and state your opinions, but the final decision does rest with the County Attorney.



### CRIMINAL INVESTIGATIONS BY LAW ENFORCEMENT

Once a crime has been reported to a law enforcement agency, it is then investigated. Officers will ask you questions and probably take a taped statement from you and other witnesses about the facts of the crime. Officers may also need to secure some of your personal belongings as evidence.

### WILL THE OFFENDER BE ARRESTED?

The officer may be able to arrest a suspect at the scene of the crime, or that person may be arrested later on a warrant issued by a Judge. Sometimes, the judge will issue an order requiring the person to appear in Court on a certain date.

If a warrant of arrest is issued, bail (a sum of money) can be posted by the defendant (offender) to get out of jail. You have the right to be notified if the offender is being released from jail. Bail is left with the Court as an assurance that the defendant will appear at future Court proceedings. Under Montana law, nearly all suspects are entitled to bail because they are considered innocent until proven guilty. A defendant can also be released from jail on his/her own recognizance without posting bail. If the offender is released from jail, the Judge will require the defendant to have no contact with you or any other witnesses, along with other terms and conditions he/she must follow. If the defendant does not comply with bail conditions, the prosecutor may request the Court "revoke" bail and place the defendant in jail.

### WHAT DOES IT MEAN TO PROSECUTE?

Prosecute means charging a person with a crime and bringing the person to trial. The process is called prosecution and the public official who presents the case is a prosecutor. Prosecutors in Montana are County Attorneys.

### WHY WERE CHARGES FILED, AND WHO MAKES THE DECISION?

The County Attorney files criminal charges against individuals who commit crimes. The County Attorney has prosecutorial discretion to decide whether to prosecute a person or not, and what the charges will be. The County Attorney reviews the investigative case to make sure there is enough evidence to obtain a conviction. A defendant is presumed innocent until proven guilty. Therefore, the prosecutor must be satisfied that there is enough evidence to convince a jury of the defendant's guilt beyond a reasonable doubt. If the prosecutor decides to go forward with the case, charges are filed against the defendant. If the prosecutor does not believe there is sufficient evidence, they may request further investigation by officers, or decline to prosecute the case.