



OFFICE OF THE STATE ATTORNEY, 10TH JUDICIAL CIRCUIT
HARDEE, HIGHLANDS AND POLK COUNTIES

VICTIM'S RIGHTS

INFORMATION FOR VICTIMS AND WITNESSES

THE PROSECUTOR

You will be working with an Assistant State Attorney who will be prosecuting your case. This attorney will provide you with information and guidance concerning your case. If you have any questions, please feel free to contact the Assistant State Attorney or the Victim/Witness Advocate.

VICTIM / WITNESS ADVOCATE

The State Attorney's Office Victim / Witness Program provides the following service:

- Information on case status
- Emotional support to victims and witnesses of crime
- Information and referral to community agencies
- Assistance in filing for Victim Crime Compensation
- Courtroom orientation and accompaniment if requested

Whether or not an arrest has been made in your case, the Victim / Witness Program is available to assist you. Please contact us at the State Attorney's Office. We are here to help you.

AS A CRIME VICTIM, YOU HAVE THE RIGHT:

- To assert victims' rights as provided by law or the State Constitution. The victim of a crime and the State Attorney, with the consent of the victim, have standing to assert the rights of the crime victim which are provided by law or s.16 (b) Article 1 of the State Constitution
- To information regarding the availability of funds through Victim Crime Compensation, when applicable
- To information about community-based treatment programs, crisis intervention services, counseling and social services
- To information about the stages in the Criminal or Juvenile Justice process which are of significance to the victim and

how such information can be obtained.

- To be informed, to be present, and to be heard when relevant, at all crucial stages of a Criminal or Juvenile proceeding, to the extent that right does not interfere with the constitutional rights of the accused.
- To be informed and to submit written statements at all crucial stages of the criminal, juvenile and parole proceedings if the victim is incarcerated
- To the prompt and timely disposition of the case, to the extent that this right does not interfere with the Constitutional rights of the accused.
- To information concerning the steps available to law enforcement and the State Attorney to protect the victim or witness from intimidation.
- To be notified as soon as possible by the agency scheduling your appearance in a Criminal or Juvenile Justice proceeding of any change in scheduling which will effect your appearance.
- To receive advance notification of the arrest, the release, or modification of the release conditions and proceedings in the prosecution or petition for delinquency of the accused.
- To be consulted by the Assistant State Attorney in order to obtain the views of the victim or the family about: the release of the accused pending a judicial proceeding, plea agreements, participation in pretrial diversion programs, and the sentencing of the accused in those felony and juvenile cases that involved physical or emotional injury or trauma.
- To have your property returned to you as soon as possible unless there is a compelling law enforcement need to retain it.
- To have your employer or creditors informed that your cooperation with a criminal prosecution may cause absences or financial hardships.
- To request restitution and to be notified if restitution is ordered by the Court and to receive information on how to en-

force the Court's order of restitution.

- To submit an oral or written Victim Impact Statement describing how the crime affected you and your family. The Assistant State Attorney will assist in the preparation of such statement if necessary.
- To have any special needs accommodated as is practical (for instance physical handicap parking, or translator services).
- To be notified if the offender escapes from a state correctional facility or involuntary commitment facility.
- To have a Victim Advocate present during any depositions of the victim.
- To request that the Assistant State attorney permit the victim to review a copy of the pre-sentence investigation report prior to the sentencing hearing if one is completed.
- To request that the court clear the courtroom of all persons, with certain exceptions, during his or her testimony concerning a sexual offense, regardless of the victim's age or mental capacity.
- To request, for specific crimes, an exemption prohibiting the disclosure of information to the public which reveals your identification, home and work phone numbers, home and work addresses, and personal assets not otherwise held confidential under the Public Records Law
- To know, in certain cases, at the earliest possible opportunity, if the person charged with an offense has tested positive for hepatitis and Human Immunodeficiency Virus (HIV) infection. Upon request of the victim or victims' legal guardian or parent or legal guardian of the victim if the victim is a minor, the court shall order such person to undergo hepatitis and HIV testing. If requested by the victim, the results of the testing shall be made available to the victim no later than two weeks after the court receives such results.
- To receive information about the "Address Confidentiality Program" available to victims of domestic violence adminis-

tered through the Office of the Attorney General.

- To receive information notifying a victim or the next of kin of a victim that they may not be excluded from any portion of any hearing, trial or proceeding pertaining to the offense based solely on the fact that such person is subpoenaed to testify, unless, upon motion, the court determines such a person's presence to be prejudicial.
- If a juvenile victim or the sibling of the victim attends or is eligible to attend the same school as that of the offender, the parent or legal guardian of the victim has the right to request that the offender be required to attend a different school.
- To be informed that victims and witnesses who are not incarcerated shall not be required to attend discovery depositions in any correctional facility.
- To be informed that information gained by the victim pursuant to Chapter 960, including the next of kin of a homicide victim, regarding any case handled in juvenile court, must not be revealed to any outside party, except as is reasonably necessary in pursuit of legal remedies.
- To be notified by the appropriate agency of the arrest and release of the offender (including any work release and community control).
- To request the presence of a victim advocate (for a victim of a sexual offense) during the forensic medical examination. An advocate from a certified rape crisis center shall be permitted to attend any forensic medical examination.
- That no law enforcement officer, prosecuting attorney, or government official shall ask or require a victim of a sexual offense to submit to a polygraph examination or other truth-telling device as a condition of the investigation.



STAGES OF THE CRIMINAL JUSTICE PROCESS



A CRIME IS COMMITTED:

The criminal justice process is set into motion when a crime is committed and law enforcement is contacted. As a victim / witness your role is crucial. You have seen, heard, or know something that is important.

A law enforcement officer will question you about the suspect, details of the crime, the location of the crime scene, etc. Your cooperation is necessary and failure to provide complete information may result in a failed investigation. Each case will proceed differently.

THE ARREST:

Your case may proceed as follows:

1. A criminal complaint is signed and law enforcement must establish sufficient probable cause to make an arrest
- Or -
2. A criminal complaint is forwarded to the State Attorney's Office for review to determine if probable cause exists. Further investigation may be necessary at this stage. .

NOTIFICATION OF POST ARREST RELEASE:

As a victim, you are entitled to notification of the Defendant's release from county jail, juvenile detention facility, or involuntary commitment facility. The arresting law enforcement officer or agency must request that the victim or appropriate next of kin complete a victim notification card. Notification will be made by the appropriate holding facility unless the victim has signed a waiver of rights.

FIRST APPEARANCE HEARING:

If an arrest is made, within 24 hours the Court holds a hearing called the "First Appearance Hearing." At this hearing, the judge hears facts and decides whether a bond amount should be set and if so, how much. If the defendant is able to post the bond amount, he or she may be released pending trial. Our Constitution guarantees the right to release on reasonable bond, before conviction.

Frequently, the Judge will include a special condition ordering the Defendant not to have contact with the victim. If you are contacted or harassed by the Defendant, you should contact the State Attorney's Office immediately. **YOU HAVE THE RIGHT TO BE PRESENT AT THE FIRST APPEARANCE HEARING. HOWEVER, YOUR PRESENCE IS NOT REQUIRED.**

FILING DECISIONS:

Once the State Attorney's Office receives the formal complaint from law enforcement, an Assistant State Attorney will review the case, and when necessary, interview (take testimony from) the victims and witnesses in the case. If the Assistant State Attorney determines that there is sufficient evidence, criminal charges may be filed. The formal charging document is called an "Information."

If the Assistant State Attorney determines that the case cannot be prosecuted, he or she will attempt to notify the victim prior to that decision being filed with the Court. The paperwork filed with the Court stating that the State will not prosecute is known as a "No Bill".

ARRAIGNMENT:

Following the First Appearance Hearing, if the Assistant State Attorney files a charge, the Defendant is required to appear in Court to state whether he or she is guilty or not guilty. Many times if the Defendant is represented by an attorney, his or her attorney, his or her attorney will file a "Written Plea of Not Guilty"

in lieu of the Defendant personally appearing in Court. AS A VICTIM, YOU HAVE THE RIGHT TO BE PRESENT AT THE ARRAIGNMENT, HOWEVER, YOUR PRESENCE IS NOT REQUIRED.

DEPOSITIONS:

Florida law allows the defense attorney to interview witnesses prior to trial.. This interview is called a “deposition.” You may receive a subpoena from the Defendant’s attorney requiring you to appear to have your deposition taken. You will be sworn in prior to your deposition being taken, and it will be taken before an official court reporter, the Defense Attorney and the Assistant State Attorney. THE DEFENDANT WILL NOT BE PRESENT. AS A VICTIM, YOU HAVE THE RIGHT TO HAVE A VICTIM ADVOCATE ACCOMPANY YOU TO THE DEPOSITION IF YOU SO DESIRE.

YOU ARE NOT REQUIRED TO TALK TO THE DEFENDANT, HIS OR HER ATTORNEY, OR A REPRESENTATIVE OF THE DEFENDANT, SUCH AS A PRIVATE INVESTIGATOR, WITHOUT A SUBPOENA AND THE PRESENCE OF AN ASSISTANT STATE ATTORNEY. IF YOU HAVE ANY QUESTIONS CONCERNING THIS MATTER, PLEASE CONTACT THE ASSISTANT STATE ATTORNEY OR VICTIM ADVOCATE.

PLEA NEGOTIATIONS:

Prior to trial, the Defendant may agree to plead guilty or plead nolo contendere and be sentenced. The Assistant State Attorney handling the case will make an effort to consult the victim before the final plea agreement is reached. If the Defendant is considered for any type of pre-trial diversion program, the victim will be consulted.

STATUS CONFERENCE HEARING:

The status conference hearing is held prior to trial. At this

hearing, the Defendant is required to appear in Court to advise the Judge whether or not he or she is ready for trial. The Defendant may also announce that he or she wishes to enter a plea. Finally, the Defendant may request a continuance if he or she is not ready for trial. YOU HAVE THE RIGHT TO BE PRESENT AT THE STATUS CONFERENCE HEARING. HOWEVER, YOUR PRESENCE IS NOT REQUIRED.

PRE-TRIAL CONFERENCE HEARING:

The Pre-Trial Conference Hearing is held one or two weeks prior to trial. The Defendant is required to appear in Court and the Court will schedule the trial for a specific date and time. YOU HAVE THE RIGHT TO BE PRESENT AT THE PRE-TRIAL CONFERENCE HEARING. HOWEVER, YOUR PRESENCE IS NOT REQUIRED.

CONTINUANCES:

It is not unusual for a case to be continued or postponed. The State Attorney's Office will try the case as quickly as possible. However, there are often circumstances that cannot be controlled by the Assistant State Attorney which make a continuance necessary.

IT IS EXTREMELY IMPORTANT THAT YOU CONTACT THE WITNESS COORDINATION OFFICE OR THE STATE ATTORNEY'S OFFICE UPON RECEIVING A SUBPONEA. THEY NEED TO HAVE CURRENT TELEPHONE NUMBERS AND ADDRESSES TO NOTIFY YOU OF A CONTINUANCE OR A CANCELLATION OF TRIAL. YOU NEED NOT COME TO COURT FOR A CONTINUANCE.

TRIAL:

In some cases, the Defendant will plead guilty or no contest before trial. However, the Defendant may go to trial, and you may be required to testify in court. The State Attorney's Office will

notify you concerning the trial schedule. During the trial, you must be very careful not to discuss the case with anyone outside the courtroom except the lawyers involved.

CLOSE OF THE TRIAL:

Following the presentation of the evidence by the Assistant State Attorney and the Defendant's Attorney, each attorney summarizes their side of the case in the "Closing Arguments." Following Closing Arguments, the jury is sent out of the courtroom to decide whether or not the Defendant is guilty. The jury's decision is called the "Verdict."

PRE-SENTENCE INVESTIGATION:

When the Judge schedules the sentencing, he or she sometimes orders the Department of Corrections to complete a report on the Defendant which includes the Defendant's prior criminal history, personal background, etc. The report includes a section for input from the victim of the crime which provides the Court information regarding restitution for losses, damages, and injuries to the victim and the victim's recommendations as to the sentence. The victim has the right to request that the Assistant State Attorney permit the victim to review a copy of the Pre-sentence Investigation Report prior to the sentencing hearing if one was completed.

SENTENCING:

A new criminal punishment code became effective October 1, 1998. The code provides a range of recommended sentences in most felony cases. The court must sentence according to these guidelines, unless it states clear and convincing reasons why it chooses to sentence differently. Usually an Assistant State Attorney will be able to indicate to you the sentence that will be recommended by the code unless some of the information needed to calculate the sentence has not been received.

JUVENILE JUSTICE PROCESS

INTAKE:

When juveniles (under 18 years of age) commit crimes, they may be taken into custody by a law enforcement officer. Depending on the type of crime, juveniles might be taken to a juvenile assessment center where they will be screened for detention. Depending on the charge and based on an assessment of risk to the public and the needs of the juveniles, they may be placed on any of three forms of detention status: home, non-secure or secure. If placed in secure detention, they will be held in a secure facility until the court decides their case.

DIVERSION PROGRAMS:

During the intake process, the department will review the charges and will make recommendations to the state attorney's office (SAO). If the SAO agrees, the charge can be handled without going to court and can be diverted to a community based program. Law enforcement can also divert a charge through a program called civil citation or teen court. If a juvenile successfully completes the diversion program then the charges are generally dismissed.

FORMAL CHARGES:

The SAO may decide to formally charge the juvenile by filing a petition in the juvenile court. If the charge is especially serious, and if the facts meet statutory guidelines, the SAO can file the charges directly in the adult court or take it before the grand jury for indictment.

FORMAL HEARINGS:

Once the SAO files a petition in the juvenile court, the case is set for arraignment where the juvenile will enter a plea. If

the juvenile pleads not guilty, then the case is set for an adjudicatory hearing before the juvenile judge.

ADJUDICATORY HEARING:

An adjudicatory hearing is like a trial but the judge determines the guilt: there is no jury. If the judge finds that the juvenile committed the offense, the court can either adjudicate the juvenile delinquent or withhold adjudication.

DISPOSITIONAL HEARING (SENTENCING):

When a juvenile is found to have committed a delinquent act, the court will hold a dispositional hearing to determine which sanctions to impose on the juvenile. The sanctions could range from community-based sanctions like probation and community services up to residential commitment.

JUVENILES TRIED AS ADULTS:

Juveniles who are prosecuted as adults may be sentenced to adult or juvenile sanctions. After a hearing, the court will decide on the sentencing or disposition. Any juvenile who is prosecuted and sentenced as an adult, regardless of age, will be treated as an adult in any future criminal proceedings. However, juveniles who are prosecuted as adults but sentenced as juveniles keep their status as juveniles.

IMPORTANT INFORMATION

CARE OF CHILDREN:

Unfortunately, there are no facilities to care for children at the courthouse. Since court proceedings may take some time, please try to find someone to care for your children while you attend court.

SUBPOENA:

You may have received a subpoena from a Deputy Sheriff requiring you to be present at a certain time and place. If you do not appear, the Court could charge you with contempt of court, resulting in a fine and/or jail sentence. If you have a question regarding a subpoena, contact the SAO as soon as possible with your concerns. When you appear at the direction of the subpoena, please make sure you take your subpoena with you. **DO NOT DISREGARD A SUBPOENA.**

VICTIM/WITNESS HARASSMENT:

Interference with a victim/witness by threats or acts of revenge is a serious crime in itself and a matter to which the local law enforcement agency, the SAO, and the court will give particular attention and do their utmost to remedy. If you or your family are in any way threatened or harassed, immediately call local law enforcement and the SAO and make a full report of the events.

INJUNCTION FOR PROTECTION:

Injunctions for Protection or Restraining Orders are issued as a result of domestic or repeat violence. Generally domestic violence is violence involving family members. Repeat violence means that the same person, not family, commits two incidents of violence within the past six months. These are applied for in civil court, but a violation may result in criminal prosecution. You can call the Clerk of the Court's Office to see if it is possible to pursue an injunction.

NO CONTACT:

The Judge may order that the defendant have No Contact with the victim. This means no contact either directly or indirectly, through a third party, by physical contact, by phone, letter, mail, or by driving by your home or place of employment.

VICTIM COMPENSATION:

If you were injured as a result of a crime, Victim Compensation may be able to help with medical bills, lost wages, or other expenses that were incurred because of the crime. Reimbursement for property loss is for elderly or disabled adults only. Each application is reviewed on an individual basis to determine eligibility. There is no guarantee that you will receive payment. Contact a Victim Advocate to discuss your particular case.

RESTITUTION:

If you have suffered direct or indirect damages, the court may order restitution for certain losses. If you desire restitution, itemize and document your losses on the Victim Losses Checklist and provide it to the Assistant State Attorney as soon as possible. If you have questions about the form or what constitutes damages, call your Victim Advocate.

Your assistant state attorney will ask the court to order restitution, if appropriate, but the court must issue the order. Legally, the defendant cannot be compelled to pay if he or she is financially unable. However, if he or she obtains employment while on probation, the Department of Corrections (DOC) has the authority to order restitution. You have the right as a victim of a crime to contact the DOC to determine the employment status of the probationer. If the court does order restitution, a Probation Officer will be assigned to the case.

The Probation Officer will set up a schedule for payments and upon receipt of payment will forward it to the Clerk of the Court. The Clerk will then distribute payments to victims within ninety (90) days of receipt. If you have questions about collection of restitution, call Probation and Parole Services at the number listed in the back of this pamphlet. Be sure to give the defendant's name and case number.

VICTIM IMPACT STATEMENT:

This is a statement made either verbally or in writing to the court before sentence is imposed. In the statement, the victim may describe the effect the crime has had on his or her family and the emotional and financial losses that he or she may have suffered. If you have questions or need assistance in preparing a victim Impact Statement, a Victim Advocate will be available to assist you.

YOUR DUTIES AS A WITNESS

You are a witness because you have seen, heard, or know something about a crime. If you are the victim of a violent crime or owner of property stolen, damaged or misused, the case may not be prosecuted unless you testify. You may not think that what you know about the case is significant, but it may be highly important. Many small pieces of information are often required to determine what happened.

To prevent delay and possible dismissal of a case, witnesses must be present when asked to appear. We must be able to contact you, so it is important that you keep our office informed of your present address, telephone numbers, and plans you have for vacation.



TIPS ON BEING A WITNESS:

1. Dress neatly and conservatively for Court.
2. **TELL THE TRUTH.**
3. Do not memorize your testimony, but try to review the facts before the trial.
4. Relax, speak loudly and clearly, directing your answers to the jury.
5. Be polite when answering questions. Do not lose your temper.
6. Listen carefully to each question before answering.
7. If you do not understand the question, say so.
8. If you do not have an answer, say so. Do not guess.
9. If your answer needs an explanation, say so, and then explain.
10. If you make a mistake in answering a question, say so and correct it.
11. Give a well thought out answer.
12. Give positive definite answers when possible, avoiding answers such as “I think,” “I believe,” or “I guess so.”
13. Do not volunteer information. Give short answers if that is what is called for: “yes” or “no,” if that is what is appropriate
14. Do not chew gum on the witness stand.
15. Be on your best behavior in and around the courtroom. When court is not in session, jurors may be in the corridors, elevators, etc.
16. Do not discuss your testimony with other witnesses.
17. Do not make statements to the media prior to or during a trial without first checking with the Assistant State Attorney.

911



IMPORTANT TELEPHONE NUMBERS EMERGENCY 9-1-1

911



OFFICE OF THE STATE ATTORNEY

FIRE POLICE MEDICAL

Polk County

(863) 534-4800

Hardee County

(863) 773-6613

Highlands County

(863) 402-6549

POLICE DEPARTMENTS

Auburndale Police Department

(863) 965-5555

Avon Park Police Department

(863) 453-6622

Bartow Police Department

(863) 534-5034

Haines City Police Department

(863) 421-3636

Hardee County Sheriff's Office

(863) 773-4144

Highlands County Sheriff's Office

(863) 402-7200

Lakeland Police Department

(863) 834-6900

Lake Alfred Police Department

(863) 291-5200

Lake Hamilton Police Department

(863) 439-1561

Lake Wales Police Department

(863) 678-4223

Polk County Sheriff's Office

(863) 298-6200

Sebring Police Department

(863) 471-5108

Wauchula Police Department

(863) 773-3265

Winter Haven Police Department

(863) 291-5858

Zolfo Springs Police Department

(863) 735-1213

DEPARTMENT OF CORRECTIONS

PROBATION SERVICES

Hardee County

(863) 773-9323

Highlands County

(863) 386-6018

Polk County

(863) 534-7010



ABUSE / VICTIM ADVOCACY

STATE ATTORNEY: VCTIM WITNESS SERVICES

Hardee County

(863) 773-9290

Highlands County

(863) 402-6549

Polk County

(863) 534-4800

Abuse Registry

1-800-962-2873

(CHILDREN, ELDERLY OR DISABLED ADULTS)

Florida Domestic Violence Hotline

1-800-500-1119

National Domestic Violence Hotline

1-800-799-7233

Polk County Sheriff's Office

(863) 534-0980

PEACE RIVER CENTER:

Hardee County

(863) 773-3228

Highlands County

(863) 402-6855

Polk County

(863) 519-3750

CRIME VICTIM COMPENSATION:

Office of the Attorney General

1-800-226-6667

SHERIFF'S OFFICES:

Hardee County

(863) 773-4144

Highlands County

(863) 402-7200

Polk County

(863) 298-6200

SUPPORT GROUPS AND COUNSELING SERVICES

Hardee County Abuse Support Group

(863) 386-1167

Highlands County Abuse Support Group

(863) 386-1167

Polk County Abuse Support Group

(863) 413-2708

SUPPORT GROUPS & COUNSELING SERVICES

Resource Center for Women (863) 294-5318

Peace River Center for Personal Development

Rape Recovery Programs:

Hardee County (863) 773-4444

Highlands County (863) 453-7200

Polk County (863) 413-2707

HOMICIDE SUPPORT GROUPS

Good Shepherd Hospice (863) 297-1880

LifePath Hospice (863) 682-0027

LifePath Hospice 1-800-464-3994

24-HOUR CRISIS HOTLINES

Abuse Shelters:

Hardee & Highlands Counties (863) 386-1167

Polk County (863) 413-2700

Rape Crisis:

Hardee County (863) 773-4444

Highlands County (863) 453-7200

Polk County (863) 413-2707

TOLL-FREE 1-877-688-5077

Suicide & Crisis Line (863) 519-3744

LEGAL INFORMATION

Injunctions for Protection:

Hardee County (863) 773-4174

Highlands County (863) 402-6723

Polk County (863) 534-4180

Florida Rural Legal Services (863) 688-7376

Heart of Florida Legal Aid (863) 519-5663