

YOUR RIGHTS AS A CRIME VICTIM

You have rights as a victim of a crime. Your rights are listed in the blue Victims' Rights Guide brochure that is available through your victim advocate. Please see that brochure for a more complete explanation of your rights.

Some rights are automatic; however, you must request some before they go into effect. If you would like to invoke certain rights, please complete and submit the Victims' Rights Request Form that has been provided by your advocate.

In addition to many other rights, you have the right to be present at and, upon specific request, to be informed in advance of any critical stage of the proceedings held in open court when the defendant will be present. Critical stage hearings include the following:

- Preliminary hearing
- Release hearing or hearing to modify conditions of release (except at arraignment)
- Entry of guilty or no contest plea
- Trial
- Hearings related to rescheduling of trial
- Sentencing
- Restitution hearing
- Probation violation or revocation hearing (for felony crimes and class A misdemeanor person crimes)
- Relief from the requirement to report as a sex offender hearing
- Hearings related to a deferred sentencing agreement
- Hearings on motions to suppress evidence
- Hearings in sexual assault cases regarding the admissibility of evidence of the victim's past behavior or dress
- Hearings on HIV testing of the defendant

- Hearings on motions or petitions to amend, dismiss or set aside a charge, conviction, order or judgment

Although you have a right to appear at these hearings, your attendance is not required unless you receive a subpoena. Even if you choose not to attend, you will still receive notice of the conviction and sentence of the defendant in writing from your advocate. Unless subpoenaed, you do not need to attend sentencing for the judge to order restitution be paid to you.

THE PROSECUTION OF A CRIMINAL CASE

The District Attorney's Office in Washington County prosecutes thousands of criminal cases each year. Most of these cases are settled with a guilty plea by the defendant before a trial occurs. It often takes several months for a case to be resolved with a plea, and longer if the case goes to trial.

In Washington County, every victim of crime whose case is charged by the DA's Office is assigned a Victim Advocate. If you have any questions about your rights, resources available to you, the status of the case, or the criminal justice process in general, please contact your victim advocate at 503-846-8671.

The District Attorney's Office will share your personal contact information with the Washington County Probation Department in order to keep you informed of the defendant's status if they are placed on formal probation through the probation department.

The following information will inform you about what generally happens when a defendant is charged with a crime. There are several major steps in a criminal case. The process is often a little different for misdemeanor crimes than for felony crimes and does not necessarily occur in the order that follows.

ARRAIGNMENT: This is the first court appearance after a defendant is arrested or issued a citation. At arraignment the defendant is advised of the criminal charges that have been filed. The defendant can always consult with a defense attorney who will review the case and advise the defendant; the choices made at court hearings, however, are the defendant's choices. The defendant is typically advised to enter an automatic not guilty plea so that future court dates can be set. If/when the defendant pleads not guilty, a case management conference or trial date may be set. The defendant typically is not allowed to have contact with the victim(s) while the case is pending.

GRAND JURY: This is a panel of seven citizens drawn from a jury pool to serve a five-week term. They review felony cases presented to them and determine if there is sufficient evidence to believe that the defendant has committed a crime. Witnesses testify one at a time under oath, and then the grand jury deliberates. If they believe that the person has committed a crime, they will issue a true bill and the Deputy District Attorney (DDA) will prepare an indictment. If they do not feel they have sufficient evidence that a crime has been committed, their findings yield a no true bill and a case does not proceed.

PRELIMINARY HEARING: The DA's Office will present evidence to the Court to show that a felony has been committed and that the State has sufficient evidence to prosecute the defendant for the offense. A defendant may waive this hearing and proceed to the next step in the prosecution. You may be subpoenaed for a preliminary hearing.

RELEASE HEARING: This is a hearing typically scheduled at the request of the defendant to determine if the Court will authorize the defendant's release, lower security (bail), or change the conditions of release pending trial. You have the right to be heard at this hearing or to submit a written

statement regarding your thoughts about release, security, or release conditions. A defendant has a constitutional right to request a release hearing. However, simply because a hearing is scheduled does not necessarily mean a judge will grant the defendant's release or modify the release conditions.

CASE MANAGEMENT CONFERENCE: This is a hearing where the defendant may accept the State's plea offer by entering a plea of guilty or no contest. The judge may also allow the defendant to plead guilty or no contest to all charges and give an entirely different sentence than the State's plea offer. If you wish to be present at the defendant's entry of plea of guilty or no contest you should attend the case management conference. The defendant will be sentenced at this hearing unless you have given us prior notice that you wish to attend the sentencing hearing. If the defendant rejects the State's plea offer, the Court will set future court dates and a date for trial.

ENTRY OF GUILTY OR NO CONTEST PLEA: A guilty plea is just that. The defendant pleads guilty and admits to all or some of the charges. With a no contest plea, the defendant does not plead guilty, but does not contest the charges. The defendant is convicted and sanctioned either way. You have the right to be heard in open court at an entry of guilty or no contest plea hearing.

TRIAL (COURT OR JURY): The defendant has a right to a jury trial. The defendant may waive that right and ask for a Court trial (also known as a bench trial) where evidence is only presented to the judge. As a victim, you have the right to be in the courtroom the entire duration of the trial. Note: Neither the prosecution nor you as a victim have a right to choose that the case be heard by a jury.

HEARINGS RELATED TO RESCHEDULING OF TRIAL: In some cases, a formal hearing is held in which the judge considers a party's request to reset the trial date. It is not unusual for a trial date to be reset several times. Please

inform us if there are dates on which you would not be available for trial.

SENTENCING: The sentence is the punishment imposed on the defendant and is determined by the judge within the boundaries set by Oregon law. You have the right to be heard at this hearing; however, you are generally not required to appear. You may also submit a written statement instead of personally appearing. The DA's Office and you as the victim can make recommendations, but the judge makes the final decision. The defendant may be ordered to pay restitution to you, perform community service, and/or undergo a variety of treatment programs. Some defendants are sentenced to the county jail or to prison.

If placed on probation, the defendant is given certain rules to obey and is monitored by the Washington County Community Corrections Department (probation/parole) or the sentencing judge. Defendants who violate the conditions of probation may be brought back before the sentencing judge for additional sanctions.

RESTITUTION HEARING: This is a formal hearing to determine restitution owed to the victim(s). This hearing only occurs if the defendant objects to the amount of restitution requested by the victim.

PROBATION VIOLATION OR REVOCATION HEARINGS: A probation violation is when a defendant does not abide by the terms and conditions of his or her probation. At a probation violation hearing, information is presented to the Court outlining the probation violation. The Court determines whether the defendant may continue on probation or whether he or she should be removed from probation and other sanctions (typically incarceration) should be imposed. The judge can also continue a defendant on probation and still impose sanctions. You have the right to be heard in open court at this hearing.

DEFERRED SENTENCING HEARINGS:

Some offenders may be eligible for intervention programs if they are willing to plead guilty to the crime(s) and undergo treatment. The purpose is to address the underlying issues that led to the criminal behavior. These may include DUII Diversion, Drug Court, the Domestic Violence Deferred Sentencing program, and the Early Case Resolution program. Not all defendants are eligible for these programs; it depends on their criminal history and the seriousness of the crime. For those who are eligible, defendants may elect to plead guilty to one or more charges and participate in a 12 to 18-month program. This program requires the defendant to successfully complete treatment, not have contact with the victim without written permission, and abide by other conditions determined by the Court. The defendant is also required to pay any restitution. If the defendant successfully completes the program and complies with all the terms of the agreement, the Court will dismiss only the charges related to deferred sentence. If the defendant violates any of the conditions or fails to successfully complete the program, the defendant may be terminated from the program and sentenced for the charges to which he or she pled guilty.

EXPUNGEMENT: Expungement is not a legal term but it is used to describe hearings on motions or petitions to amend, dismiss or set aside a charge, conviction, order or judgment. In an expungement hearing, a person submits a petition for the sealing of the record of an arrest and conviction, eliminating it from his or her record. Only certain convictions may be expunged.

OTHER HEARINGS: Other hearings also occur throughout the course of criminal prosecution. Some of these hearings occur after the sentence and conviction of the defendant. If you invoke notice of such hearings, your Victim Advocate will inform you of your rights related to that hearing. **If you**

wish to continue to receive such notifications, you must continue to update your contact information (mailing address and phone number) with our office.

Please contact your victim advocate should you have any questions or concerns related to this case at 503-846-8671.

For more information about the criminal justice process and the Victim Assistance Program, please visit our website at:

www.co.washington.or.us/DistrictAttorney/VictimAssistance/index.cfm



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GENERAL INFORMATION FOR CRIME VICTIMS



**Washington County
District Attorney's Office
Victim Assistance Program**

**Kevin Barton
District Attorney**

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