

Victim's Guide to the Nebraska Criminal Justice System



Information about the Criminal Justice System**

** Please note that the information contained in this booklet is only in relationship to felony based offenses.

Important Contact Information

County Attorney's Name: _____

Prosecutor's Name: _____

Phone Number: _____

Victim Assistance Agency: _____

Contact Name(s): _____

Phone Number: _____

VINE 1-877-634-8463

Inmate Name: _____

Inmate Number: _____

Institution Name: _____

Your four-digit PIN: _____

How Do I Find Help?

To find out where to get help or information call or visit these websites:

Nebraska Coalition for Victims of Crime:

<http://nebraskacoalitionforvictimsofcrime.typepad.com/>

Nebraska Domestic Violence Sexual Assault Coalition: 402-476-6256

or www.ndvsac.org

Mothers Against Drunk Driving (MADD): 1-800-623-3435 or 402-434

-5330 (Nebraska Office)

Nebraska Alliance of Child Advocacy Centers: 402-595-1326 or

<http://nebraskacacs.com/>

Nebraska Crime Commission: (402) 471-2194 or <http://>

www.ncc.ne.gov

Restitution Payment by offenders to the court, which is then transferred to the victim, for damage that happened during a crime. Restitution helps to make the offender accountable for the crime and helps restore the victim's financial loss.

Subpoena A court order directing a person to be present at a certain time and at a certain place. Failure to comply with the subpoena will cause a person to be in contempt of court.

Victim As defined by Neb. Rev. Statute 29-119 is a person who, as a result of a homicide, a first or second degree sexual assault, a first or second degree assault, a sexual assault of a child, a first degree false imprisonment, or a robbery, has had a personal confrontation with the offender. Victim shall also mean a person who suffered serious bodily injury as a result of a motor vehicle accident when the violator was charged with driving under the influence. Some criminal justice agencies use a broader definition for victim.

Victim Impact Statement A written statement that a victim may use to explain to a Probation Officer and a judge how the crime has affected him or her emotionally, physically and financially. Forms are available for this purpose from the Probation Office, a victim advocate, or directly from the County Attorney's office.

Waive (Victim Rights) To voluntarily give up or to temporarily postpone your rights as a victim of a crime.

Work Release A program that allows an inmate who is confined in prison to be released each day to go to work in the community.



This pamphlet is created by the Nebraska Crime Commission.
2004
Updated April 2014

This guide is intended to provide you some very basic information about Nebraska's Criminal Justice System, specifically those cases that involve a felony level offense. It is meant to be an overview, so if you have additional questions, please contact the County Attorney or a Victim Advocate in your area.

Intimidation is Not Okay

If you or someone in your immediate family is being threatened through the use of violence or intimidation by the defendant, or at his/her direction, please do one or all of the following:

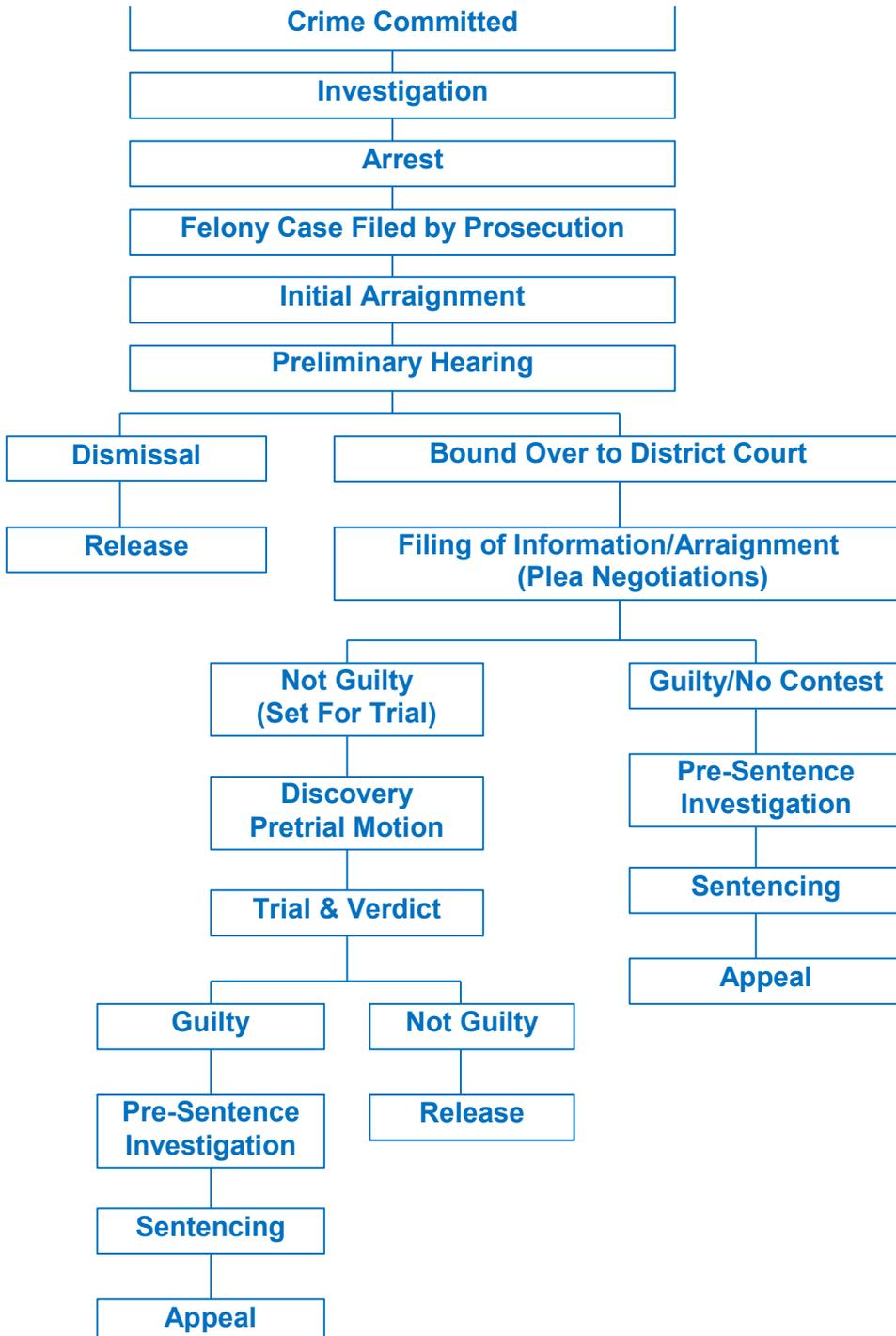
- Contact your local law enforcement agency immediately and report the incident.
- Contact the County Attorney's Office and tell the attorney handling the case what has been happening.
- Ask the County Attorney or an advocate for information on protection orders.
- Contact the nearest Victim Assistance Program and request information.

Victim's Rights and Duty

Later in this guide we will review some specific rights for victims in the criminal justice system. These rights can be found in Nebraska Revised Statute 81-1848. These rights include your right to receive information and to be notified of specific parts of the criminal justice process, as well as several other rights. In order to ensure that your rights are provided to you, it is necessary that the County Attorney know how to contact you. Statute requires, in felony cases, that victims of crime keep the County Attorney informed of current address and phone number until the defendant is sentenced or a final decision in the case is reached.

The Criminal Justice System

(Felony Cases)



Furlough A privilege of limited freedom from prison of 12 to 48 hours. Furloughs are approved by the Director of the Department of Corrections and the Board of Parole. Inmates who are on furlough are escorted by approved sponsors who are required to accompany the inmate at all times.

Jury Twelve county residents sworn to decide if the defendant is guilty or not guilty of a crime he/she is charged with.

Misdemeanor A lesser offense for which a maximum sentence of one year or less in jail, probation, and/or a fine can be imposed. There is no preliminary hearing held for misdemeanor crimes.

No Contest (Nolo Contendere) A plea by the defendant in a criminal prosecution that, without admitting guilt, subjects him or her to a conviction but does not prevent him or her from denying the charges in a future court proceeding.

Parole The supervised release of an inmate after he/she has served a portion of his/her sentence in prison. An inmate's parole release is subject to the conditions set by the Nebraska Board of Parole. Violation of these conditions can result in the arrest and return of the inmate (parolee) to prison.

Parole Board (Board of Parole) A five-member board (separate from the Nebraska Department of Correctional Services) that makes decisions about whether to approve, deny or revoke paroles.

Perjury Not telling the truth after swearing in under oath.

Pre-Sentence Investigation A report prepared by a probation officer which provides background information about the defendant, the crime and its impact on the victim. The judge uses this information in sentencing the defendant.

Protection Order An order from a judge designed to attempt to protect victims from future acts of abuse or harassment.

Public Defender Lawyer employed by the local government to represent defendants who cannot afford to pay for a lawyer's services.

Glossary

Arraigned To be called before a Court to be notified of the charges and possible penalties that have been filed against the defendant.

Bail An amount of money set by the court which allows a person charged with a crime to be released from jail. The purpose of bail is to insure the defendant (person charged with a crime) will appear in court. The defendant usually must pay 10% of the amount of bail set by the judge in order to be released. For example, a defendant would need to pay \$250 of a \$2,500 bail to be released.

Complaint A written document presented to the court charging a defendant with an offense.

Continuances Sometimes court hearings cannot always take place as scheduled. As a witness you may be informed that your case has been continued or will be heard on another day.

Conviction When a defendant is found guilty of the crime he/she committed either by a jury or by a judge.

County Attorney/Prosecutor/County Attorney's Office A lawyer employed by the county whose job is to prosecute people who are accused of committing crimes. In many counties, there are several attorneys employed. One is the County Attorney and the other attorneys are called Deputy County Attorneys.

Crime Victim Reparations Fund A program to assist innocent victims of crime who suffer bodily harm and have incurred a financial loss as a direct result of a criminal act.

Crime Victim's Bill of Rights A portion of the state constitution and state statute that guarantees certain rights to crime victims and which are listed in this pamphlet.

Defendant A person who is charged with committing a crime.

Felony A serious crime that is usually punishable by imprisonment in a state penitentiary or county jail or by time spent on probation and/or a fine.

Explanation of the Criminal Justice System

(Felony Cases)

The image on the previous page illustrates the flow of a felony case through the criminal justice system. Below is a brief explanation of each stage of the process. It may help you to know that the defendant is the person who committed the crime.

Felony Crime Committed

Law enforcement responds to a call and should first attend to the immediate needs of the victim. The officer may contact an advocate to assist with this as well. The officer investigates the crime by taking statements from witnesses which will likely include a statement from the victim.

Investigation

If law enforcement gathers enough evidence against a person suspected of committing the crime, they will arrest that person. In some situations, they may obtain an arrest warrant from the court and then make the arrest.

Arrest

If an arrest is made, the facts of the case are presented to the County Attorney (Prosecutor) who determines if criminal charges are to be filed with the court. At this point, the authority of the case transfers from the law enforcement agency to the County Attorney's Office.

Felony Case Filed by Prosecution

If the prosecutor believes there is enough evidence to prove that the accused committed the crime, the prosecutor will decide what charges are to be filed and files the criminal charges with the court.

Initial Arraignment (County Court)

The accused is brought before a County Judge and the County Attorney informs the defendant (accused) of the criminal charges against him or her and the possible penalties for such crimes. A defense attorney is appointed for the defendant if he/she cannot afford one.

- **Possible Plea Negotiations:** In plea-bargaining, the defendant may be offered a reduced (lesser) charge by the prosecutor in exchange for a guilty plea. As a victim, you have a right to be informed of any plea that is accepted.

- **Bail:** If no plea-bargain is offered or agreed to, a date is set for further court proceedings. The judge may set bail for the defendant.

Docket Call (County Court)

Some county court judges may use a Docket Call to control his/her schedule. Victims do not need to appear at a Docket Call. The prosecutor and the defense attorney appear and the court sets a date for the Preliminary Hearing.

Preliminary Hearing (County Court)

The defendant has the right to waive (not have) the Preliminary Hearing at any point before it is held. At a Preliminary Hearing, it is possible that the victim and other witnesses may be asked to testify and asked specific questions by the Defense Attorney (the Defendant's Attorney); this is not uncommon. The defendant will be present at the Preliminary Hearing. During the Preliminary Hearing the following may occur.

- **Dismissal:** If the judge decides there is not enough evidence to prove that a crime was committed or that the defendant most likely did not commit the crime, the case will be dismissed. The judge may also dismiss the felony charge. If so, the prosecutor would have the option to re-file the case as a misdemeanor, or lesser charge.
- **Release:** If the case is dismissed, the defendant is released and free to leave.
- **Bound Over to District Court:** If during the Preliminary Hearing, the judge decides there is sufficient evidence to prove that a crime was committed and that the defendant most likely committed the crime, the case will be transferred to the District Court for trial. This does not mean that the defendant was found guilty. It simply means that the Judge thinks there is enough evidence to continue to explore if the defendant committed the crime.

Filing of Information and Arraignment (District Court)

The charges are brought before a District Court Judge. The defendant is told what charges are being brought against him or her and the penalties. A date is set for further proceedings.

- **Plea Negotiations:** Plea-bargaining may take place between the

Court clerk who then gives the forms to the judge. These forms are available from the District Court clerk or the Supreme Court website referenced earlier. It is recommended that you work with a victim advocate in your area to fill out the forms to obtain a protection order.

Victim Information & Notification Everyday (VINE)

VINE (Victim Information & Notification Everyday) is a free anonymous computer service that provides victims of crime the ability to check on the status of a specific offender and/or be notified if the offender is released from prison or jail or transferred to another Nebraska correctional facility. The Nebraska VINE service is available in English, Vietnamese and Spanish.

For inmate status information or to be notified when an inmate is released or transferred, call, toll-free, 1-877 NE-4-VINE (1-877-634-8463) and follow the prompts or go to www.vinlink.com to register. You may also request help from a victim assistance agency.

When checking on the status of an inmate, you will be asked to enter the name of the offender or his/her inmate number. VINE will quickly provide you with inmate status information.

If you want to be notified when the offender is released or transferred to another facility you must register either by calling the number listed above or going to www.vinlink.com and clicking on the Nebraska map. During registration by phone you will be asked to provide a telephone number where you can be reached and to select a four digit Personal Identification Number (PIN) code. When the VINE system calls you and there is no answer or the line is busy, VINE will continue to call for a minimum of 48 hours. VINE will leave a message on an answering machine, but will continue to call for 48 hours or until you enter your PIN. Entering your PIN notifies the VINE system that you have received the notice.

Other Help Available

Crime Victim's Reparations Program

You may qualify for financial help with bills relating to your crime. If you have medical expenses, funeral expenses or have lost wages as a result of a crime, and which are not covered by insurance, you may qualify for reimbursement under the Nebraska Crime Victims Reparation Act. To qualify you must report the crime to law enforcement within 72 hours and apply for compensation within 2 years from the date of the crime. The compensation program does not cover loss of property or pain and suffering.

For more information and a claim form contact your local Victim Assistance Program, Domestic Violence Program, state or local MADD program or contact the Nebraska Crime Commission at P.O. Box 94946, Lincoln, Nebraska 68509; or call (402) 471-2828. More information can be found on the Nebraska Crime Commission website: www.ncc.ne.gov. Click on "Services/Programs" and then "Crime Victim Reparations".

Protection Order

A protection order is an order from a judge to help protect people from abuse or harassment. It is granted because someone attempted or threatened to cause bodily injury, or intimidated the other person.

There are two types of protection orders, a Domestic Abuse Protection Order and a Harassment Protection Order. For more information on Nebraska's protection orders please visit the Nebraska Supreme Court's self help website at: <http://supremecourt.ne.gov/self-help> and click on Protection from Abuse. A Domestic Abuse Protection Order is for people who have been in close relationships (relatives, spouses or former spouses, people who have lived or are living together and people in a dating relationship) and have experienced injury or threats by that person. A Harassment Protection Order does not depend upon relationships, but requires a number of telephone or personal contacts that seriously terrify, threaten, or intimidate a person.

You must complete protection order forms and give them to the District

County Attorney, the defendant and his/her attorney. In plea-bargaining, the defendant may be offered a reduced (lesser) charge in exchange for a guilty plea. As a victim, you have a right to be informed of any plea that is accepted.

Plea

If there are no plea negotiations, the defendant will go before the court and enter a plea of guilty, not guilty or Nolo Contendere (No Contest) of the crime for which they are charged. No Contest is a plea, which the defendant can enter in court. When doing so, the defendant is not denying or admitting guilt to the charges. The judge will review the evidence presented and will make a ruling of guilt or acquittal (not guilty). The defendant can later deny the charges. If the judge rules that there is enough evidence to support a conviction then a "No Contest" plea is equivalent to a guilty plea.

A) Pleads Not Guilty: The defendant is stating that he/she is not guilty of committing the crime(s). The following procedures then occur.

1) Set for Trial: The court schedules the date of the trial. Prior to trial, the defendant's attorney may file motions (paperwork) to exclude a person who will testify against the defendant. The victim's testimony may be needed with such motions. Such motions may also include a request to exclude certain types of physical evidence or specific testimony from being introduced during the trial. The defendant's attorney may also take sworn, statements from the victim and other witnesses prior to trial. This process is called a Deposition.

2) Discovery Pre-trial motion: The defendant's attorney is provided the evidence the prosecutor has against the defendant.

3) Trial & Verdict: The defendant and his/her attorney decide if they want a trial by jury or with a Judge. A jury is made up of 12 people randomly selected by the court who hear all the evidence in the case and decide the verdict (guilty or not guilty). If the trial is with a judge (also known as a Bench Trial), then the judge decides the verdict (guilty or not guilty).

4) Not Guilty Verdict: If the defendant is found not guilty, he/she is released and is free.

5) Guilty Verdict: If the defendant is found guilty of the charges there is usually a Pre-sentence Investigation (PSI) completed.

6) Pre-sentence Investigation (PSI): If the defendant is found guilty, a pre-sentence investigation may be completed by Probation. It consists of an interview with the defendant, a review of his/her criminal record, and a review of the specific facts of the crime. A form may be sent to the victim called a Victim Impact Statement. The victim may use this to provide information for the court regarding how he/she was impacted by the crime. The Probation Office may also contact the victim by phone to collect this information. The victim has the option of filling out the form or submitting their own statement to be included in the PSI. It is important to note that the PSI may be made available to the defendant. The probation officer may make a recommendation to the judge about the type and severity of the sentence (penalties). The judge may or may not follow the recommended sentence from probation.

7) Sentencing: The penalties for the defendant will be announced in District Court after the trial and the pre-sentence investigation is completed. The sentence may include fines and/or jail or prison time or probation or all of the above.

8) Appeal: If the defendant is found guilty, he/she has a right to appeal the conviction to a higher court. During this time, the defendant may be free on an appeal bond. (See Appeal Process Information Section)

B) Pleads Guilty or No Contest: The defendant pleads guilty or No Contest (Nolo Contendere) to the charges that were brought to the District Court. Before deciding on the sentencing, the Jdgc may order a pre-sentence investigation.

1) Pre sentencing Investigation (PSI): If the defendant is found guilty, a pre-sentence investigation may be completed by Probation. It consists of an interview with the defendant, a review of his/her criminal record, and a review of the specific facts of the

after the convicted person is released from custody or treatment.

3) the Department of Health and Human Services:

- when the convicted person becomes the subject of a mental health petition prior to their discharge from custody or within thirty days after such discharge;
- when a person under the Mental Health Board Commitment escapes from an inpatient facility providing treatment and again when the person is returned to an inpatient facility;
- when a person under a mental health commitment is discharged or has a change in disposition;
- when a person under a mental health commitment is granted a furlough or release for 24 hours or longer;
- when a person under a mental health commitment is released into educational programs or work release programs. Such notification shall occur at the beginning and termination of any such programs.

4) the Board of Pardons:

- of any pardon or commutation proceedings;
- if a pardon or commutation of the conviction has been granted.

9. To have the family members of all homicide victims afforded all of the rights of this act.

Additional Rights for Victims of Crime:

1. To waive their rights as a victim at any time by contacting the Clerk of the Court or through an Attorney;
2. To request the County Attorney to forward their name and address to the appropriate agency so that they can be notified by:
 - 1) the Department of Correctional Services or county corrections agency:
 - if the convicted person is granted a furlough or release from incarceration for 24 hours or longer or transferred to community status;
 - if a convicted person is released into a community-based program, including educational release and work release programs.
 - if a convicted person escapes or does not return from a granted furlough or release and be notified when the convicted person is returned into custody;
 - if a convicted person is discharged from custody upon completion of his or her sentence.
 - of the earliest date the convicted person can be paroled or released;
 - of any reduction in the convicted persons minimum sentence;
 - 2) the Board of Parole:
 - of the tentative release date and the earliest parole eligibility date of the convicted person;
 - of any Parole Hearings or proceedings;
 - when a convicted person who is on parole is returned to custody because of parole violations;
 - if it has been decided that the convicted person is a mentally disordered sex offender or is a convicted sex offender

crime. The victim may be sent a Victim Impact Statement form to fill out. The victim can use this to provide information to the court regarding how he/she was impacted by the crime. The Probation Office may also contact the victim by phone to collect this information. The victim has the option of filling out the form or submitting their own statement to be included in the PSI. It is important to note that the PSI may be made available to the defendant. The probation officer may make a recommendation to the judge about the type and severity of the sentence (penalties). The judge may or may not follow the recommended sentence from probation.

2) Sentencing: The penalties for the defendant will be announced in District Court after the pre-sentence investigation is presented. The sentence may include fines and/or jail or prison time or probation or all of the above.

3) Appeal: The defendant has a right to appeal the sentence to a higher court. During this time, the defendant may be free on an appeal bond. (See Appeal Process Information Section)

Appeal Process Information

An appeal is usually filed because the defendant and/or his/her attorney believe that there is some error in the procedure or application of the law. The court will review this to determine if an actual error exists. During this time the defendant may be released on an appeal bond until the appeal is heard in the higher court, which could be several years later. The Trial Court's decision is not considered final until all appeals are heard. Once the appeal is heard, the decision will be made to either uphold or dismiss the decision of the lower court.

Appeals are first taken to the Court of Appeals and once a decision is made by the Court of Appeals, the defendant can then appeal to the State Supreme Court.



Victims' Rights

Below is a summary of the basic rights for victims of crime. If more information is needed contact the prosecutor in the County Attorney's office handling the case or a Victim Assistance Program. You can also find the specific victims' rights in Nebraska Revised Statute 81-1848.

Victims Of Crime (as defined by Neb Rev. 29-119) Shall Have the following rights:

1. To be able to see any information that is collected by criminal justice agencies, that is available to the public.
2. To be notified by the County Attorney:
 - of the crimes for which the defendant is charged;
 - the defendant's bond;
 - the time and place of any scheduled court proceedings, including the sentencing proceeding;
 - if the time and place of any scheduled proceedings has changed;
 - if the defendant was found guilty or not guilty, and what crimes he/she was found guilty for, and the penalty;
 - of the time and place of any further judicial proceedings if the defendant was acquitted (found not guilty) on grounds of insanity;
 - of the victim's right to make provide a statement to the Probation Office for the PSI, and information on how to contact the Probation Office;
 - if the PSI and any statement by the victim included in such report is to be made available to the defendant; and
 - of their right to submit a written impact statement at the sentencing proceeding or to read his or her impact statement at the sentencing proceeding.
3. To be present throughout the entire trial of the defendant, unless the victim is to be called as a witness.
4. The victim will be notified by the Parole Board of his/her right to submit a written statement for consideration by the Board and to be notified of any action taken by the Board.
5. To submit a written statement for consideration at any conditional

release (a furlough from incarceration for 24 hours or longer) proceedings, Board of Parole proceedings, pardon proceedings, or commutation (change in the punishment) proceedings.

6. To be notified of the filing of an appeal by the defendant.
7. To be notified by the Attorney General:
 - that the defendant has filed an appeal of the conviction;
 - about the appeal process, including possible dispositions;
 - if the defendant has been released on bail pending the disposition of the appeal;
 - of the time and place of any appeal proceedings and any changes in the time or place of those proceedings;
 - of the results of the appeal; and
 - of the final disposition of the case within 30 days after the final disposition is made.
8. To be immediately notified of the escape of the prisoner.
9. To be notified if the prisoner is confined pursuant to a sentence.

Victims and Witnesses of Crime Shall Have the Following Rights:

1. The victim will be informed of any witness fees available, other financial assistance and any social services that may be available, and the process to apply for this assistance.
2. To be informed of any cancelled court proceeding for which the victim received a subpoena to appear.
3. To receive protection from harm and threats of harm arising out of their cooperation with law enforcement and prosecution efforts.
4. During court proceedings, to be provided, whenever possible, a secure area that is not near the defendant and the defendant's family and friends.
5. To have any stolen or other personal property returned by law enforcement when it is no longer needed as evidence.
6. To be provided help in working with the victim's employer to minimize an employee's loss of pay and other benefits resulting from the victim's court appearances.
7. To a speedy disposition of the case in which they are involved.
8. To be informed by the county attorney of the final disposition of a felony case in which they were involved and to be notified whenever the defendant is released from custody.