

CRIME VICTIMS' BILL OF RIGHTS

KENTUCKY LAW

Victims of the crime have certain basic rights in Kentucky. If you are the victim of a violent crime, you are entitled to receive:

Notification about:

- arrest and release of the accused (defendant)
- case information
- dates of criminal court proceedings
- plea negotiation agreements
- final case disposition
- appeal of conviction

Protection from intimidation, harassment, and retaliation;

Property Return as soon as possible;

Secure Waiting Area during trial;

Referral Information for financial assistance, social and medical services, and community treatment programs;

Victim Impact Statement at the time of sentencing and parole hearing, describing the effects of the crime on the victim's family

Restitution for out-of-pocket losses that are not covered by insurance

THE PROSECUTOR

The primary obligation of the prosecutor is to see that truth and justice are served. In doing so, the Office of the Fayette County Commonwealth's Attorney undertakes the serious responsibility of serving the interests and concerns of citizens who are victimized by crime in Fayette County.

The primary responsibilities of the Commonwealth's Attorney and his assistants are to prosecute all felony violations of criminal law. A felony is any crime punishable by imprisonment of one-year or more.

THE CRIME VICTIM ASSISTANCE PROGRAM

The Crime Victim Assistance Program began in 1985 as a division within the Office of the Fayette County Commonwealth's Attorney. The goal of the program is to identify and provide criminal justice services to innocent victims of serious violent crimes including homicide, sexual assaults, physical assaults, domestic violence, stalking, offenses involving child victims, robbery, kidnapping, wanton endangerment, and residential burglary. Assistance is given to other victims of non-violent crime who have special requests.

The services provided by our program are:

- referral for financial assistance or counseling;
- case information and notification;
- accompany victims and family members to court;
- explanation of the judicial system;
- assistance in filing the Victim Impact Statement; and
- assistance in filing for financial aid through the Crime Victim Compensation Board

THE ROLE OF THE VICTIM

As a victim or witness of a crime, your assistance is vital to our system of criminal justice. The following information will explain how a case progresses through the criminal justice system and what services are available to you and your family. A prosecuting attorney **and** victim advocate will be working with you while your case proceeds through the system.

It is essential to keep the **Commonwealth's Attorney's Office** informed of your present address and/or a telephone number where you may receive messages.

ARREST AND DISTRICT COURT ARRAIGNMENT

After a suspect is charged with and arrested for a felony crime, he or she must appear in the felony division of District Court for an **arraignment** in order for the judge to officially notify the defendant of the charges against her/him. The defendant will enter a plea of not guilty and the judge then sets a date for a **preliminary hearing** generally within 10-20 days. It is not essential that a victim or a witness appear in the court for the arraignment.

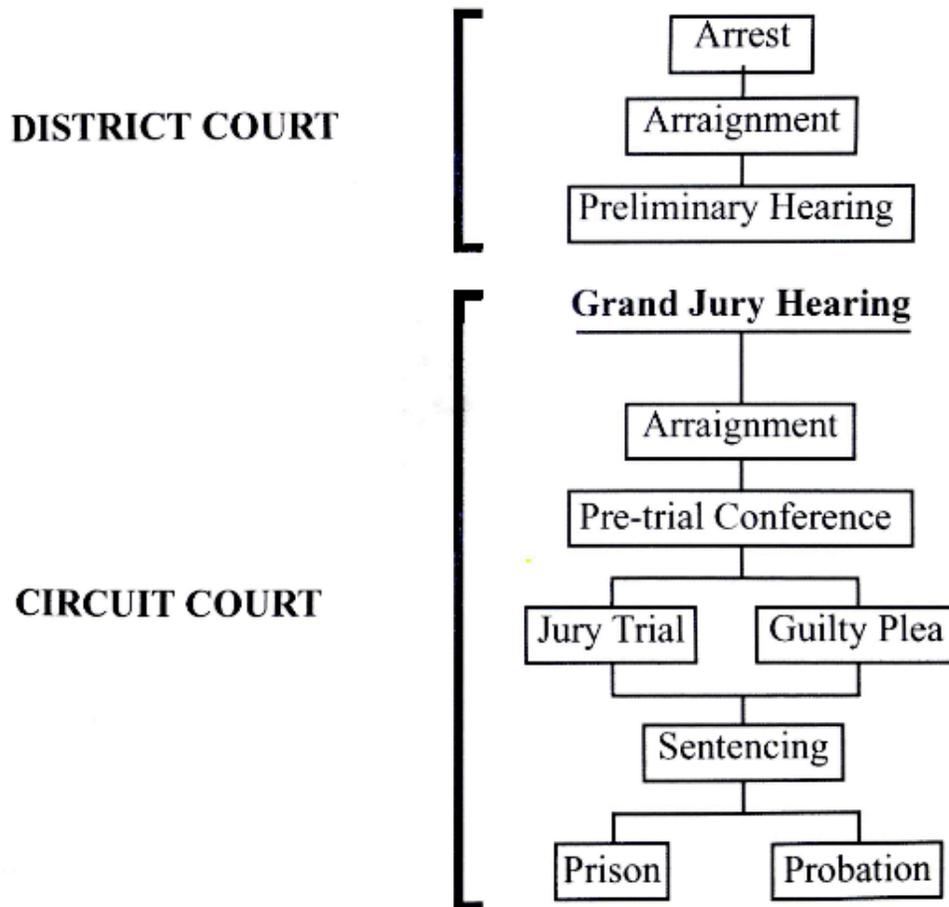
PRELIMINARY HEARING

A **preliminary hearing** is held to determine whether there is sufficient evidence against the charged defendant. Here, the District Court Judge listens to evidence of the crime, usually from witnesses such as the arresting officer and/or the victim. If the Judge finds that sufficient evidence exists, the case will be referred to the Fayette County Grand Jury.

THE COURT SYSTEM

There are two types of courts in Kentucky which handle criminal cases: **Circuit Court** has jurisdiction of felony preliminary hearings, misdemeanors, juvenile matters, and traffic offenses.

Felony cases begin in the District Court and progress to the Grand Jury and then proceed on to **Circuit Court**.



Anyone in need of assistance involving a misdemeanor or crime committed by a person under the age of 18 should contact the Fayette County Attorney's Office, District Court Building, 150 North Limestone Room D444, Lexington, Kentucky 40507, (859) 254-4941.

GRAND JURY

The Grand Jury is a group of twelve Fayette County residents, chosen at random, who hear evidence by the arresting officer, victims of crime, and other witnesses. This evidence is presented by the prosecutor in an effort to allow the Grand Jury the opportunity to hear enough information about the case to be able to determine whether or not a crime was committed by the defendant and whether or not he or she should be tried for the crime. Nine of the twelve jurors must agree for indictment to be returned. Grand Jury proceedings are closed to the public; this includes family members and friends.

It is necessary for a victim or other witnesses to testify before the Grand Jury, you will be notified and a subpoena will be issued.

CIRCUIT COURT ARRAIGNMENT

At the Circuit Court arraignment, the defendant appears in open court and is notified by the Circuit Judge of the charges contained in the indictment returned by the Grand Jury. The defendant enters a plea of not guilty or not guilty. Typically, a plea of not guilty is entered and the Circuit Judge sets a Status Hearing date and a Pre-Trial Conference date. The victim may attend the Status Hearing, but your appearance in court is not required.

STATUS HEARING

The Status Hearing is an aspect of the criminal justice process which allows speedy disposition of cases without the necessity of a trial. The defendant appears in open court and enters a plea of guilty or a trial date is set. You will be notified of the Status Hearing but your appearance in court is not required.

JURY TRIAL

If it is determined that the case will be tried by a jury, the prosecutor will present evidence to the twelve Fayette County residents who make up the jury. It is the jury to determine whether the defendant is guilty or not guilty, beyond a reasonable doubt, of the crime for which he or she is charged. If the defendant is found guilty of a crime, the jury is also responsible for fixing the penalty. The investigative officers, victims, witnesses all will be subpoenaed to appear in open court to testify under oath before the jury. You will be notified of the trial date and the prosecutor will contact you to review your testimony with you and answer any questions you may have.

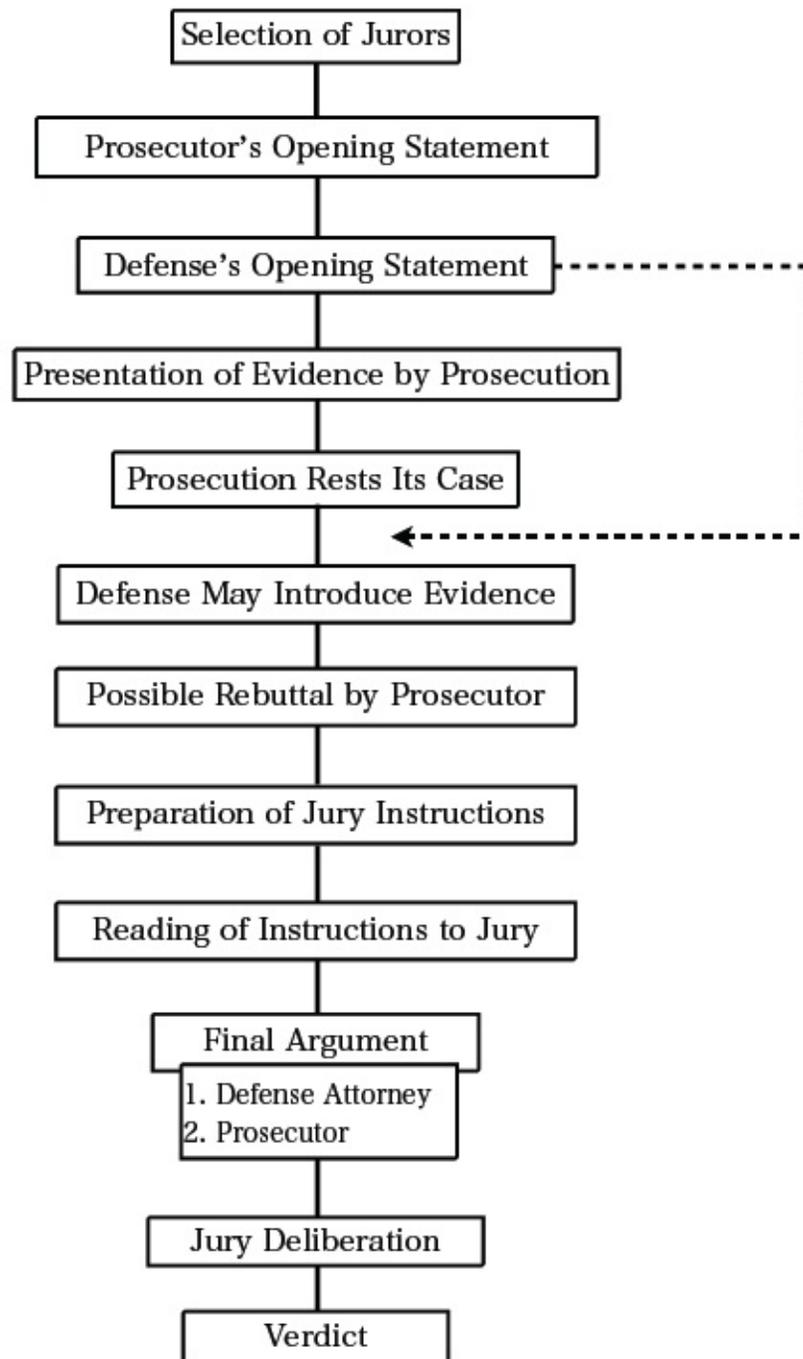
SUBPOENA

A subpoena is a Court Order requiring you to be present at a certain place and time. It may also order you to bring a minor to court or present documents relating to a case. You will be served this document in person, usually by a Fayette County Deputy Sheriff. Information contained on this document includes your name and address, the defendant's name, the courthouse and location, the date and time of appearance, and the prosecutor's name and telephone number.

JUDGMENT AND SENTENCING

After the defendant has entered a plea of guilty or has been guilty by a jury, the Circuit Judge sets a final sentencing hearing. This hearing is usually held within thirty days. Prior to imposing a sentence, the judge will consider: 1) a **Pre-sentence Investigation** of the defendant and 2) a **Victim Impact Statement** submitted by a victim and/or family members of the victim. At a final sentencing hearing, the judge will impose the penalty. The judge will also decide whether the defendant is sent to prison or probated.

Trial by Jury Procedure



CRIME VICTIM COMPENSATION

Who can Apply?

- Any person who is an innocent victim of a violent crime, including victims of drunk driving, where bodily harm, psychological injury or death has occurred;
- In the event of death, any person who is assumed the medical or burial expenses incurred as a direct result of the crime; and
- Any person who has lost earnings or support as a result of the crime.

Victims must report the crime to the proper authorities within 48 hours, must cooperate with law enforcement agencies, and must apply within 5 years after the crime occurred.

If you feel that you may be eligible for compensation, please contact the Crime Victim Assistant Program for a claim form or the:

Crime Victims Compensation Board
130 Brighton Park Blvd.
1-800-469-2120
502-573-2290
Frankfort, KY 40601

GLOSSARY OF LEGAL TERMS

- accused** - formally charged but not yet tried for committing a crime.
- acquittal** - a judgement of a court, based on the decision of either a jury or a judge, that a person accused is not guilty, beyond a reasonable doubt, of the crime for which he or she has been tried.
- appeal** - a request by either the defense or the prosecution that the results of a decision on certain motions, or of a trial, be reviewed by a higher court.
- arraignment** - the appearance in a court of an accused person which the court may inform the accused of the charges against him or her, advise the accused of his or her rights, appoint a lawyer for the accused, and hear the plea of the accused.
- arrest** - to take a person suspected of committing a crime into legal custody for the purpose of charging him or her with committing a specific crime.
- assault** - an illegal physical attack by one person against another.
- burglary** - the act of unlawfully entering or remaining in a residence or building with the intent or committing a crime, for example, a theft or an assault.
- Commonwealth's Attorney** - see prosecutor
- conviction** - a judgment of the court, based either on the decision of a jury or a judge or on the guilty plea or the accused, that the accused is guilty of a crime.
- court** - an agency of the judicial branch of the government authorized by law to decide controversies of law and fact brought before it.
- criminal court** - a court that hears cases concerned with the alleged violation of criminal law.
- criminal justice system** - the government agencies responsible for law enforcement, prosecution of alleged violations of the criminal law, the court hearing of charges against the accused, and the punishment and supervision of those convicted.
- criminal law** - the law whose violation is considered an offense against the state that is punishable upon conviction by imprisonment and other penalties for adult offenders.
- defendant** - a person who has been formally charged with committing a crime.
- defense attorney** - the lawyer who represents the defendant in a legal proceeding.
- disposition** - the final judicial decision which ends a criminal proceeding by a judgment of acquittal or dismissal, or which states the sentence if the accused is convicted.

felony - a serious crime for which the punishment is imprisonment in a state prison, usually for one year or more.

guilty - a verdict of a judge or a jury that a person accused of committing a specific crime did commit it.

guilty plea - a formal response by a person accused of committing a specific crime in which the accused says the charges are true and he or she did commit the crime.

hearing - a legal proceeding in which arguments, witnesses, and/or evidence are heard by judicial officer or an administrative body.

homicide - any killing of one person by another without justification.

indictment - a formal written accusation, made by a grand jury and filed in a court, alleging that a specific person has committed a specific crime.

jail - a confinement facility; technically, a jail is usually administered by a local law-enforcement agency for adults who have been accused of committing a crime but whose trials are not yet over and/or persons who have been convicted in a trial and sentenced to imprisonment for twelve months or less.

judge - a judicial officer who has been elected or appointed to preside over a court of law.

jury - a group of citizens who are selected and sworn to determine certain facts by listening to testimony in order to decide whether the accused is guilty or not.

jury selection - the process by which the judge, the prosecutor, and the defense attorney screen citizens who have been called to jury duty to determine if they will give a fair hearing in a particular trial.

misdemeanor - a crime that is less serious than a felony and for which the punishment is usually imprisonment for twelve months or less, usually in a jail.

not guilty - a verdict by a judge or a jury that a person accused of a crime did not commit it or that there is not enough evidence to prove beyond a reasonable doubt that the accused committed the crime.

offender - an adult who has been convicted of a crime.

parole - the conditional release of a convicted offender from a confinement facility before the end of his or her sentence with requirements for the offender's behavior set and supervised by a parole agency.

plea bargain - an agreement between the prosecutor and the defense attorney that the defendant will plead guilty to a crime in exchange for some concession, commonly a lesser charge, the dismissal of other pending charges, or a recommendation by the prosecutor for a reduced sentence.

prison - a state confinement facility for adult offenders, usually those sentenced for one year or more.

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- probation** - the conditional release of a person who has been convicted of a crime and sentenced to a term of imprisonment. Conditions are attached to the release and if they are not followed by the defendant, he or she then must serve a term of imprisonment.
- prosecutor** - an attorney for the community, elected or employed by a government agency to represent the interests of the general public, including crime victims, in court proceedings against people accused of committing crimes.
- robbery** - the unlawful taking or attempt to take property in the immediate possession of another by force or the threat of force, with or without a weapon.
- sentence** - the punishment imposed by the court on a person convicted of a crime.
- sentencing** - the legal process in which a defendant, who has been found guilty of a crime, hears in court what his or her punishment will be.
- sexual assault** - broadly, any sexual act or attempted sexual act in which the victim is forced to participate by the threat or use of force.
- subpoena** - a written order by a judicial officer requiring a specified person to appear in a designated court at a specific time and place in order to serve as a witness in a case or to bring material to the court.
- trial** - an examination of issues of fact and law before a judge and jury at which evidence is presented to determine whether or not an accused person is guilty of committing a specific crime.
- verdict** - the decision of the judge or jury at the end of a trial that the accused defendant is either guilty or not guilty, beyond a reasonable doubt, of the crime for which he or she has been tried.
- witness** - a person who has directly seen an event, such as a crime, or has knowledge that is related to a court case.

Note:

The majority of these definitions were taken from
Morton Bard and Dawn Sangrey, *The Crime Victim's Book*
(New York: Basic Books, Inc., Publishers, 1979), pp 186-197.

HELPFUL TELEPHONE NUMBERS

LOCAL

Emergency Medical Services	911
Lexington-Fayette Urban County Division of Police	258-3600
Sheriff's Office	252-1771
Commonwealth's Attorney's Office	246-2060
County Attorney's Office	254-4941
State Probation & Parole	246-2177
Child Abuse Hotline	245-5258
Rape Crisis Hot-line	253-2511
Fayette County Jail	425-2700
Comprehensive Care Center	233-0444

STATE WIDE

Crime Victims Compensation Claim Board	1-502-573-2290
Kentuckians' Voice for Crime Victims	1-502-367-0638
M.A.D.D. Kentucky	1-877-623-3435
Office of the Attorney General Division of Victim Advocacy	1-800-372-2551
Parole Board	1-800-221-5991
V.I.N.E. Victim Information & Notification Everyday System (Inmate Status)	1-800-511-1670

IMPORTANT NUMBERS
