

**YOUR RIGHTS
AND
RESPONSIBILITIES
AS A
CRIME VICTIM
AND
WITNESS**



This brochure is made available to you courtesy of the Nevada Advisory Council for Prosecuting Attorneys, the Nevada District Attorneys Association, and your local prosecutor's office.

Important Telephone Numbers

State of Nevada Victims of Crime Program	Southern Nevada Northern Nevada	(702) 486-2740 (775) 688-2410
Domestic Violence Hotline		(800) 799-7233
Nevada Parole and Probation Website: www.dps.nv.gov/pandp/	Southern Nevada Northern Nevada	(702) 486-3001 (775) 684-2600
Nevada Board of Parole Commissioners Website: www.pardole.nv.gov	Southern Nevada Northern Nevada	(702) 486-4370 (775) 687-5049
Nevada Department of Corrections Website: www.doc.nv.gov		(775) 977-5500
Victim Information Notification Everyday (VINE)	Statewide	(888) 268-8463
Clark County Victim Witness Assistance Center	Clark County	(702) 671-2525
Crisis Support Services	Washoe County	(775) 221-7600 or 988

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THE PROCESS BEGINS

What Should I Do If a Crime Has Occurred?

If you have not reported the crime, you must do so immediately by calling 911. Explain to the emergency dispatch officer what happened and if the suspect is still in the area. The dispatch officer will assign your call to the appropriate law enforcement agency to make a full report. *It is very important that you do not move, touch or destroy any evidence of the crime, as the law enforcement officer will photograph it and take it into evidence.*

Law enforcement will ask you to fill out a statement as to what happened. It is critical that you make this statement as complete as possible. If you have trouble writing, notify the law enforcement officer of this and he/she will arrange for someone to help you. In your statement, only include what you saw or know to be true—do not speculate. *It is very important that you put down any statements the suspect made to you before, during or after the crime.* If you remember something after you submit your statement, fill out a supplemental statement and give it to the law enforcement officer who took your first statement, or the detective who is assigned to the case. Even if you are not sure the information you have is important, it is better to fill out a supplemental statement and let the law enforcement officer or prosecutor determine whether it is necessary information. Often, cases have been lost because a witness did not give complete information to the law enforcement officer or prosecutor.

Your Role as a Victim or Witness

The victim of a crime:

As a victim of crime, you are essential to the prosecution of the defendant. However, you are not a formal party to the criminal proceeding. In a criminal proceeding, the State (or city) is the plaintiff and the accused is the defendant. It is important that you realize the prosecutor has the discretion as to whether or not to proceed on criminal charges. Even if you do not want the defendant prosecuted, the prosecutor can proceed. The same is true if you want to prosecute and the prosecutor declines. Please keep in mind that you always have the option of filing a civil lawsuit against the defendant through a private attorney.

In addition, as a victim, you have certain rights as established in Article 1, Section 8A of the Nevada Constitution, referred to as “**Marsy’s Law.**” Those rights are:

1. Each person who is the victim of a crime is entitled to the following rights:
 - (a) To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment and abuse, throughout the criminal or juvenile justice process.
 - (b) To be reasonably protected from the defendant and persons acting on behalf of the defendant.
 - (c) To have the safety of the victim and the victim’s family considered as a factor in fixing the amount of bail and release conditions for the defendant.

- (d) To prevent the disclosure of confidential information or records to the defendant which could be used to locate or harass the victim or the victim's family.
 - (e) To refuse an interview or deposition request, unless under court order, and to set reasonable conditions on the conduct of any such interview to which the victim consents.
 - (f) To reasonably confer with the prosecuting agency, upon request, regarding the case.
 - (g) To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other postconviction release proceedings, and to be present at all such proceedings.
 - (h) To be reasonably heard, upon request, at any public proceeding, including any delinquency proceeding, in any court involving release or sentencing, and at any parole proceeding.
 - (i) To the timely disposition of the case following the arrest of the defendant.
 - (j) To provide information to any public officer or employee conducting a presentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.
 - (k) To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant and the release of or the escape by the defendant from custody.
 - (l) To full and timely restitution.
 - (m) To the prompt return of legal property when no longer needed as evidence.
 - (n) To be informed of all postconviction proceedings, to participate and provide information to the parole authority to be considered before the parole of the offender and to be notified, upon request, of the parole or other release of the offender.
 - (o) To have the safety of the victim, the victim's family and the general public considered before any parole or other postjudgment release decision is made.
 - (p) To have all monetary payments, money and property collected from any person who has been ordered to make restitution be first applied to pay the amounts ordered as restitution to the victim.
 - (q) To be specifically informed of the rights enumerated in this section, and to have information concerning those rights be made available to the general public.
2. A victim has standing to assert the rights enumerated in this section in any court with jurisdiction over the case. The court shall promptly rule on a victim's request. A defendant does not have standing to assert the rights of his or her victim. This section does not alter the powers, duties or responsibilities of a prosecuting attorney. A victim does not have the status of a party in a criminal proceeding.
3. Except as otherwise provided in subsection 4, no person may maintain an action against this State or any public officer or employee for damages or injunctive, declaratory or other legal or equitable relief on behalf of a victim of a crime as a result of a violation of this section or any statute enacted by the Legislature pursuant thereto. No such violation authorizes setting aside a conviction.
4. A person may maintain an action to compel a public officer or employee to carry out any duty required by this section or any statute enacted by the Legislature pursuant thereto.
5. The granting of these rights to victims must not be construed to deny or disparage other rights possessed by victims. A parole authority shall extend the right to be heard at a parole hearing to any person harmed by the offender.
6. The Legislature shall by law provide any other measure necessary or useful to secure to victims of crime the benefit of the rights set forth in this section.

7. As used in this section, “victim” means any person directly and proximately harmed by the commission of a criminal offense under any law of this State. If the victim is less than 18 years of age, incompetent, incapacitated or deceased, the term includes the legal guardian of the victim or a representative of the victim’s estate, member of the victim’s family or any other person who is appointed by the court to act on the victim’s behalf, except that the court shall not appoint the defendant as such a person.

If you have any questions regarding your rights, speak to the prosecutor or victim advocate assigned to your case.

A witness to a crime:As a witness (not a victim), you have seen, heard or know something about a crime that has occurred, and it is important that you be prepared to concisely provide your information and to potentially testify in court. Oftentimes, a witness’ reluctance to get involved results in the prosecution’s inability to charge, convict and/or punish the suspect.

The Charging Process

Once the law enforcement officer completes the investigation, there are several options:

1. The officer may arrest the suspect if the crime is a felony, gross misdemeanor, or a domestic violence battery that occurred within the preceding 24 hours; or
2. The officer may submit the full crime report to the prosecutor for review and a charging decision, and if charges are filed, the prosecution will issue an arrest warrant or summons for the defendant to appear; or
3. The officer may suspend or close the case because of a lack of sufficient evidence on which to make an arrest or to submit to the prosecutor.

Once the prosecutor receives the investigation reports from law enforcement, he/she will review the case. The prosecutor has three options after reviewing the case: return the case to law enforcement for further investigation; file a “Criminal Complaint” containing what he/she believes are the appropriate charges in the case based upon probable cause or decline to prosecute.

The prosecutor has the sole discretion to decide how to handle the case. If the prosecutor decides not to file charges, it is generally because he/she believes that there is insufficient evidence to obtain a conviction. It does not mean that a crime did not occur; however, the prosecutor must prove the case “beyond a reasonable doubt,” and has an ethical obligation to proceed only on those charges that are supported by the evidence.

Crimes

You can find Nevada’s criminal laws in the Nevada Revised Statutes (NRS). A crime is defined as “an act or omission forbidden by law and punishable upon conviction,” and classifies criminal

offenses into three categories: misdemeanors, gross misdemeanors, and felonies.

Misdemeanor:

Every crime punishable by a fine of not more than \$1,000 and/or imprisonment in a county or jail for not more than 6 months. Community service imposed by the court is an alternative to all or part of the punishment. These crimes are handled in either justice or municipal courts by a justice of the peace or city judge. Guilt or innocence is determined solely by the presiding judge. A defendant charged with a misdemeanor does not have the right to have a jury trial. Some examples of misdemeanors are traffic offenses, simple battery (unlawful hitting), and property crimes with a value under \$250.

There is one exception to the above. When the defendant is charged with misdemeanor battery domestic violence, the automatically have a right to a jury trial. It is the only misdemeanor that provides this right.

Gross Misdemeanor:

Punished by imprisonment in the county jail for not more than 1 year, a fine of not more than \$2,000 or by both. Probation is possible with this crime. This crime requires a preliminary hearing (probable cause) in front of a justice of the peace and, if enough evidence exists, bound over for jury trial in county district court. An example of this crime is conspiracy to commit another crime. Very few crimes come under this category.

Probable cause means there must be some evidence that suggests criminal activity before police can arrest a suspect or conduct a search of a person's property without a warrant.

Felony:

The most serious criminal offense and is punishable by imprisonment for more than 1 year in a state prison and fines up to \$10,000. There are five classes of felonies, ranging from a category E (maximum sentence of 4 years) to a category A (up to life imprisonment or the death penalty). Probation is available in most felonies. Contact your prosecutor if you have any questions regarding the range of punishment. Anyone charged with a felony has the right to a preliminary hearing and, if bound over to district court, has the right to a jury trial. Examples of felonies are sexual assault, burglary, murder, robbery, and drug violations.

Arrest and Bail

There are different procedures involved for the arrest of a defendant:

Misdemeanor: A law enforcement officer may issue a citation for a misdemeanor committed in his/her presence. If the misdemeanor was not committed in their presence, he/she can submit the case to the prosecuting attorney for review and possible charges. A person can make a “citizen’s arrest,” but this practice is discouraged as it makes the person who made the arrest possibly liable for wrongful arrest. It is best to have the law enforcement officer either make the arrest or submit the case to the prosecuting attorney to file charges.

**Gross Misdemeanor/
Felony:** A law enforcement officer may make an arrest if the offense is a gross misdemeanor or felony, regardless of whether he/she was present when the crime occurred if they have probable cause to believe a crime was committed.

Summons: A court issues a summons, which requires a defendant to appear for arraignment and trial. A summons is generally used for misdemeanors where the defendant is not likely to commit any additional crimes.

Warrants: A law enforcement officer may arrest a defendant who has a warrant issued by a court for their arrest.

Bail Bonds: A bail bond is to ensure that the defendant will appear at every stage of the criminal justice process. A defendant in a criminal case is generally entitled to have bail set in a reasonable amount. Bail bonds are usually money or security that a defendant puts forth that allows them to leave custody. The judge sets this amount. However, a judge can increase the amount based on the seriousness of the crime; the defendant’s prior criminal history; or if there is evidence the defendant might leave the area or commit further crimes. If the defendant is unable to meet the bond amount, he/she usually remains in custody pending trial on the charges. The judge has the ability to release a defendant on his/her “own recognizance” without posting bail. This is done if the judge believes the defendant will appear for all court proceedings and is unlikely to commit further crimes.

Remember, under Marsy’s Law, you, the victim, have the right to be reasonably protected from the defendant and anyone on his behalf; to have your safety and that of your family considered as a factor when the court sets the amount of bail and any release conditions for the defendant.

Who Will Prosecute the Crime?

City Attorney: Responsible for prosecuting misdemeanors that occur within the city limits of an incorporated city. The city attorney cannot prosecute gross misdemeanors or felonies. Trials in municipal or justice courts are held before a judge and there is no right to a jury trial. The exception is misdemeanor battery domestic violence, in which the defendant is entitled to a jury trial

State Attorney General Responsible for prosecuting misdemeanors, gross misdemeanors and felonies involving Medicaid fraud, insurance fraud, industrial insurance fraud, crimes committed by inmates against the State, crimes committed against the State by State employees, and conflict cases where the local city attorney or district attorney cannot prosecute the matter.

District Attorney: Responsible for prosecuting all crimes (felonies, gross misdemeanors and misdemeanors) that occur, except as detailed above.

For the purposes of this handbook, the term “prosecutor” will be used for the city attorney, district attorney or attorney general and their deputies.

Under Marsy’s Law, the victim has the right to reasonably confer with the prosecuting agency, upon your request, regarding the case.

THE COURT PROCESS

Once the prosecutor charges the defendant with a crime and law enforcement either arrests or summons the defendant to appear before the court, he/she received an initial appearance or arraignment. At that time, the court informs the defendant of the charges and the bail amount. Depending upon the classification of the charge, the defendant will receive a trial date (for misdemeanors) or a date for a preliminary hearing (if a gross misdemeanor or felony).

Arraignment – Misdemeanors

At the time of arraignment, the court reads the defendant the charges and asks them to enter a plea of guilty, not guilty or *nolo contendere*. If the defendant pleads guilty, the judge will sentence the defendant at that time. If this occurs, you may not have the opportunity to be heard regarding the sentencing. If this is a serious concern for you, you should contact the prosecutor immediately and notify them of your sentencing concerns. This is especially important if you believe you are entitled to restitution.

A *nolo contendere* plea is treated as a guilty plea by the court but the defendant need not admit guilt for the crime. You always have the option of pursuing civil remedies, through a private attorney, in a separate action against the defendant. You cannot stop a defendant from pleading *nolo contendere*.

Preliminary Hearings and Arraignments – Gross Misdemeanors/Felonies

If the prosecutor charged the defendant with a gross misdemeanor or felony, the defendant is entitled to a preliminary hearing. A preliminary hearing is a hearing where the judge determines if there is probable cause, i.e. if a crime was committed and if the defendant probably committed it. A preliminary hearing is similar to a trial, except the prosecutor and defense attorney do not have to put on their entire case. Guilt or innocence is not decided at a preliminary hearing—just probable cause to bind the defendant over for trial in the district court. If the judge does not find sufficient evidence to bind the case over for trial, he/she will dismiss the charges.

Once a justice court finds probable cause, the matter transfers to the district court, where the prosecutor files an “Information” containing the same charges. The district court hold an arraignment, during which the court reads the defendant the charges and asks them to enter a plea of guilty, not guilty or *nolo contendere*. If the defendant pleads guilty or *nolo contendere*, the judge will order the sentencing hearing held several weeks or months later in order to provide the Division of Parole and Probation time to prepare a report for the judge of the current crimes and the defendant’s criminal history, and to permit the defendant to prepare for a potential prison sentence. You have an opportunity to be heard regarding the sentencing. If this is a serious concern for you, you should contact the prosecutor immediately and notify them of your sentencing concerns. This is especially important if you believe you are entitled to restitution.

If the defendant pleads not guilty, the judge will then set a trial date. The defendant is entitled to a trial within 60 days. Although defendants have this right, the date for trial will usually be set several months away unless the defendant is in custody and has not posted bail. Do not be surprised if the trial date is many months away, or if it is continued (rescheduled) to a later date. The court system is quite busy and courts are unable to hold all trials within a short time.

Instead of a preliminary hearing, some of the larger jurisdictions (Las Vegas and Reno) have grand juries empaneled. A grand jury is a special proceeding convened at the outset of a criminal case to decide whether the prosecutor has enough evidence to prosecute, or “indict,” a suspect for a specific crime. It functions much like a judge in deciding whether there is sufficient evidence to bind a defendant, charged with a felony or gross misdemeanor, over for trial in district court. However, in a grand jury proceeding, the defendant and his attorney is not allowed to put on a case or to ask questions. And the grand jury reports to the district court, which issues an “Indictment.”

Subpoena

Once a trial date is set, you will receive a subpoena, which is a court order directing you to appear in court at a specified time and place. It may be delivered to you by mail or in person. If you fail to appear as ordered, you face criminal contempt of court charges. It is very important that you obey a subpoena.

If you have a conflict with the date set on the subpoena, you must notify the prosecutor’s office as soon as possible. You should also notify the prosecutor’s office if you change your address, phone number, or plan on leaving the area.

Your employer should not discharge, punish or threaten you for attending a criminal proceeding when you are subpoenaed. If you experience such problems, please contact your prosecutor’s office immediately.

It is always advisable to contact your prosecutor’s office upon receipt of a subpoena from either the prosecutor’s office or a defense attorney. That allows the prosecutor plenty of time to meet with you before you have to testify.

Once you are asked to testify, you will be reminded that you are under oath (or the judge will give the oath). You will be asked to give your full name and to spell it for the record.

Direct Examination: If the prosecutor subpoenaed you, the prosecutor will be first to ask you questions. This is called direct examination. In direct examination, the prosecutor will ask you what you saw, heard or know.

Cross-Examination: Once the prosecutor finish their questions, the defense attorney will ask you questions. This is called cross-examination. Generally, most questions under cross-examination can be answered with a yes or no. After cross-examination, the prosecutor can asked you follow-up questions based on the questions the defense attorney asked you. This is called rebuttal. The defense attorney then has the opportunity to ask you questions based on the rebuttal questions. This is called sur-rebuttal.

Once you have finished testifying, the court may excuse you or ask you to remain for possible further testifying. Do not leave the area unless the court excused you or you speak with the prosecutor.

After the prosecution finished their case (called the case-in-chief), the defense puts on its case. The defense can call witnesses (including you) to try to show that the defendant is not guilty of the charged crime. The defendant has the right to take the stand and testify on his or her own behalf, or to choose not to testify. The prosecutor has the right to cross-examine the defense witnesses, and the defense attorney has the right to ask rebuttal questions. After the defense finished their case, the prosecution has the chance to put on any additional witnesses to rebut the defense case.

Once both the prosecution and defense have put on their respective cases, the court closes that portion of the trial and asks for final arguments. You may be present for these arguments if you wish. In closing arguments, the prosecutor tries to convince the jury they have proven the crime beyond a reasonable doubt, while the defense attorney tries to show the opposite.

For a misdemeanor in municipal or justice court, the judge may make a ruling at that time, or may take the matter under advisement and issue a ruling later. If the defendant is found guilty of a misdemeanor, then the judge will announce the sentence. If you are a victim, you have the right to appear and be heard at sentencing. For further information on sentencing, see the Sentencing section of this handbook.

In a district court trial, a panel of 12 jurors (and several alternates) will decide if the defendant is guilty of the charged crimes. The jurors are selected through a process called *voir dire*, where the attorneys and judge, through a question and answer process, try to pick jurors who will be fair.

The district court judge will conduct the trial and make rulings on what is admissible in court. The trial will be conducted as explained above.

The jurors will listen to all the evidence and, when the prosecution and defense have concluded their cases, will go to a separate room to discuss the case, called “deliberation.” During deliberation, the jurors will decide if the defendant is guilty or not guilty of the charged crime. Deliberations often take several days.

If the jury find the defendant guilty of the charges, the district court judge will delay sentencing (usually 30-60 days) to allow the Division of Parole and Probation to prepare a pre-sentence investigation (see Sentencing section of this handbook).

Never attempt to talk with a juror about the case or any other matter during the trial. This includes chance meetings during recesses, in hallways, at lunch or any other place. Even if you are friends with a juror, you must not discuss the case with them.

Your conduct during a jury trial is very important. Dress appropriately, maintain eye contact with whoever ask the questions, be courteous to the court and attorneys, and always listen to the question that asked.

TESTIFYING

The first time you are called to testify can be quite intimidating. Remember that you are there to tell the court what you know, saw or heard. The court or jury is trying to get as much information as possible before determining whether the defendant is guilty of the charges. The defense attorney may try to confuse you about what you know, saw or heard; just tell the truth as best as you can recall.

General Rules for Testifying

Always Tell The Truth.

Speak Clearly.

A court reporter needs to take down everything you say, so it is important to speak clearly. This is also very important in a jury trial. Do not nod your head without out saying yes or no. Avoid saying “uh huh” or “uh uh,” as it is difficult to determine if that is a “yes” or “no.”

Listen Carefully To The Questions.

If you do not understand the question, ask the attorney to repeat it. If it is an improper question, the other attorney will object.

Dress Appropriately.

Court is a very serious matter, and you should dress neatly. Shorts, tank tops, t-shirts or clothing

with offensive language or designs are not appropriate courtroom attire. Talk to your prosecutor if you have any questions about what is appropriate attire for court.

Do Not Lose Your Temper or Use Foul Language.

Do Not Argue With The Attorneys.

Do Not Volunteer Information or Exaggerate.

Answer only the questions asked.

Bring Any Records or Documents That You Are Asked To Bring.

Know what is in those records and make sure the prosecutor has copies.

Testify Only To The Facts You Observed Or Know.

Do not speculate, guess, or give your personal opinion unless asked to do so.

If Either Attorney Or The Judge Makes An Objection, STOP Until The Judge Tells You To Continue.

If You Did Not Correctly Give Your Answer or It Was Confusing, Then Correct It Immediately. Do Not Guess If You're Not Sure.

After The Court Excuses You from The Stand, Do Not Discuss the Case in The Halls, Restrooms or Anywhere You Could Be Overheard.

If You Are Asked if You've Discussed the Case, Tell the Truth. There Is Nothing To Hide.

Your Behavior Outside the Courtroom Is as Important as Your Behavior in The Courtroom.

Arrange For Childcare When You Come To Court.

Do not bring children to court unless they are included on a subpoena.

If an answer to a question is going to make you criminally responsible for something, you can refuse to answer on the grounds of self-incrimination. You should mention this to the prosecutor prior to trial, and/or retain a private attorney.

Plea Negotiations

Many criminal cases are negotiated when the prosecutor and defendant reach an agreement. If the parties reach a plea agreement, there will be no trial. It is often to the to the prosecutor's advantage to enter into a plea agreement due to lack of evidence, missing witnesses, or other reasons. If you, as a victim, have concerns about restitution or other issues, you should contact your prosecutor and inform him/her of those concerns so that the prosecutor can include the restitution as part of the agreement. The plea agreement is not final until a judge approves it. The judge does not have to follow any sentencing recommendations that may be part of the plea agreement. You have the right under Marsy's Law to the timely disposition of the case after the defendant's arrest.

AFTER THE TRIAL

Sentencing

Whether the defendant pleads guilty or is found guilty by a judge (misdemeanor) or jury (gross misdemeanor/felony), the presiding judge is responsible for handing down the sentence. For the various available penalties, see the Crimes section above. Do not try to contact the judge regarding the defendant's sentencing. Express your concerns to your prosecutor and, if a felony case, to the parole and probation officer.

A pre-sentence investigation is required for anyone who pleads or is found guilty of a felony and is optional for those convicted of a gross misdemeanor. The "Pre-Sentence Report" lists a description of the crime, the victim's statement, and the defendant's prior criminal history, employment, education, alcohol/drug abuse, and other factors used to determine an appropriate range of punishment for the defendant. The judge is not bound to follow the recommendations contained in the pre-sentence report—rather, the judge uses the report as background information to determine the appropriate punishment.

As a victim in a felony (and possibly gross misdemeanor) case, the Division of Parole and Probation will contact you for a sentencing statement and any amount of restitution you may be entitled to. ***It is very important that you fill out the statement and return it to the parole and probation officer.*** Under Marsy's Law, you have the right to provide information to any public officer or employee conducting a pre-sentence investigation regarding the impact of the crime on you and your family, to be used toward a sentencing recommendation before the defendant's sentencing hearing. Keep in mind that your statement will become part of the pre-sentence investigation that the judge considers.

Your Right to be Heard at Sentencing

Pursuant to Marsy's Law as a victim you have the right:

To be reasonably protected from the defendant and anyone acting on behalf of the defendant.

To reasonable notice of any public proceedings, upon your request, at which the defendant and prosecutor can present argument, along with all parole and other post-conviction release proceedings, and to present at all such hearings.

To be reasonably heard, upon your request, at any public proceeding, including any involving release or sentencing;

To be informed, upon your request, of the defendant's conviction, sentence, place and time of incarceration, or other disposition; the scheduled release date of the defendant; and the release of or the escape by the defendant from custody.

This means that before imposing the final sentence, the court must afford you, the victim, an opportunity to personally appear and reasonably express your views concerning the impact of the crime on you and your family, and the need for any restitution.

Restitution

The court can order restitution against a defendant who is found guilty. Acceptable restitution includes direct costs such as medical bills, property damage and stolen property. The court must determine the proper amount of restitution. This requires you, the victim, to provide the prosecutor with copies of your bills regarding associated medical costs and/or estimates for replacement or repair of damaged property. If the crime is a gross misdemeanor or felony, you should also provide those documents to the parole and probation officer who prepares the pre-sentence report.

The court cannot order restitution for such things as pain and suffering or future loss of earnings. If your insurance already paid your bills or damages, the only costs you can recover are your out-of-pocket deductible. If your case involves a large amount of damages, you may want to consider contacting a private attorney and filing a lawsuit against the defendant in civil court.

As a victim, you have the right to full and timely restitution. But many defendants do not have the financial means to pay restitution. Do not be surprised if the defendant fails to comply with a court order to pay restitution. If a defendant fails to make restitution that was a condition of his/her probation, the court can consider that failure as grounds for revoking probation. But as to any payments the defendant makes to costs and fees, you have the right to have any payments first applied to your restitution.

Other Compensation

The State of Nevada has a fund to provide compensation to victims of violent crime. The compensation may be awarded for medical bills, psychological counseling, lost wages, and funeral and burial expenses. You **cannot** receive compensation for property loss, legal fees, phone bills, living expenses, or pain and suffering. For an application form, contact the Victim of Crimes Program at the contact information noted on page 2.

If you are a victim of a sexual offense, there are other assistance programs. Counties are responsible for paying sexual assault examinations and medical care for any physical injuries resulting from the offense within 72 hours after the victim arrives for treatment. The county can also pay up to \$1,000 for counseling costs. Contact your prosecutor if you have any questions regarding these provisions.

Appeals

A defendant who is convicted of a crime has the absolute right to appeal that finding of guilt. If the defendant was convicted of a misdemeanor, the initial appeal is to a district court judge. If the defendant was convicted of a gross misdemeanor or felony, the initial appeal is to the Nevada Supreme Court. Keep in mind that there are several levels of appeals, so your case may not have final resolution for some time. Ask your prosecutor about any appeals in your case. You have the right to be informed of any proceedings following the defendant's conviction.

Parole

For a felony conviction, the prison system calculates the defendant's parole eligibility. Those dates are available on public websites. You can also register with the prison's victim advocate to receive notices regarding the defendant's housing and consideration for release. You have the right to be informed of any parole hearings; to provide information to the Parole Board; and to have your information and possible testimony presented and considered at a parole hearing. You also have the right to have your safety, as well as the safety of your family and the general public, considered before a defendant is released on parole.

Other Rights

There are other sections in the Nevada Revised Statutes that provide for victim's rights. Below, is a compilation of various chapters in the NRS that provide for some of those rights. *This is not a comprehensive list of those rights.* Please contact your prosecutor if you have any questions regarding your specific rights.

NRS 62D.440 Where the defendant is a juvenile, the prosecutor, if you request, must disclose to your or your parent or guardian the sentence imposed by the court.

NRS 176A.630 In a probation revocation hearing or a hearing to modify a defendant's sentence, the Division of Parole and Probation must notify you of the proposed changes, and you have the right to be heard at the hearing. *But you must request the Division of Parole and Probation, in writing, that you be notified.*

NRS 178.5696 During a criminal case, the court must provide a secure waiting area for victims and witnesses. And the court or law enforcement agency that has custody of the victim's or witness' personal property shall, *upon written request*, make available a list of the property held in custody unless disclosure or identity of the evidence would seriously hamper the investigation. And the property must be returned when it is no longer needed as evidence.

NRS 178.5698 Again *upon written request of the victim*, the prosecutor, sheriff or chief of police shall inform the victim of:

- When the defendant is released from custody at any time before or during trial;
- The amount of bail set for the defendant;

- The final disposition of the case in which he/she was directly involved; and
- If the defendant is convicted of a sexual offense or a crime of threatened or actual use of violence against the victim, the court shall provide to each victim or witness certain forms and documentation outlining their rights.

Again, contact the prosecutor for specifics regarding this section.

NRS 200.591 A court may issue a temporary or extended order for protection to a person who reasonably believes that the crime of stalking, aggravated stalking or harassment is being committed.

NRS 209.392 & .521 *Upon written request of the victim*, the Department of Corrections shall notify the victim if the defendant becomes eligible for residential confinement; if the defendant is released from custody; or escapes.

NRS 213.010, .040, .095 *Upon written request of the victim*, the State Board of Pardons Commissioners must notify a victim when a prisoner applies for clemency, allow the victim to submit written statements or to be heard, and to notify the victim of the hearing results.

NRS 213.130 *Upon written request of a victim*, the State Board of Parole Commissioners must notify a victim that a prisoner is eligible for parole; the victim must be notified of the date of the hearing and given the opportunity to testify and submit documents; and the Board must notify the victim of their decision whether to grant parole.

As a victim, you are entitled to certain notifications if you submit a written request to be notified. As part of that written request, you must provide a contact address. If you move, you must provide notification of the new address. Your address must be kept confidential by the agency that receives your written request. Below are addresses for the state agencies you should notify once the defendant is convicted of a gross misdemeanor or felony:

Nevada Department of Corrections
Central Administrative Office
Attn: Warrants Coordinator/Victim Notification
P.O. Box 7011
Carson City, NV 89702

Nevada Division of Parole and Probation
Central Administrative Office
1445 Hot Springs Road, 104 West
Carson City, NV 89706

Nevada Board of Parole Commissioners
1445 Hot Springs Road 108-B
Carson City, NV 89711

Frequently Asked Questions and Definitions

Can I drop the Charges against the Defendant?

No. The crime is committed against the State, and you are either a victim or a witness. The decision whether to proceed with the charges is up to the prosecutor, not the victim. While you may be reluctant to proceed to court, keep in mind that it is important that a defendant be held responsible for his/her criminal conduct, or he/she may commit crimes against other people in the future. You cannot fail to appear for court, or you will face criminal charges. Express any concerns you have to the prosecutor.

What Is the Difference Between Probation and Parole?

Probation is when a convicted defendant is given sentence that is suspended, meaning the defendant returns to society rather than report to a jail or prison. The court will set terms for the probation and can revoke probation if the defendant fails to comply with those terms. If revoked, the court will impose the original suspended sentence and the defendant is generally sent to jail or prison.

Parole is when a defendant was sentenced to prison for a felony conviction and has served a certain amount of time that makes him eligible for parole, meaning early release from prison. Even though a prisoner may achieve parole, he/she remains under the jurisdiction of the Department of Corrections until their term of sentence expires.

What If the Defendant or Someone Else Threatens Me?

Contact 911 immediately and report it. Fill out a statement describing what occurred. After the law enforcement officer takes your report, notify the prosecutor. It is against the law to threaten, harass or intimidate a victim or witness.

Do I Have to Talk With the Defense Attorney Prior to Testifying?

No. If the defendant, defense attorney or defense attorney's private investigator contacts you prior to trial and wishes to discuss the case, you are under no obligation to discuss it with them. You always have the option to tell them no or that you want the prosecutor to be present for any discussions. Always contact the prosecutor and tell them of any such contacts. If you choose to discuss the case without the prosecutor present, you should take notes of what you said and the questions that were asked. Anything you say can be used in the trial.

What If I Need an Interpreter?

Contact the prosecutor's office and notify them that you need an interpreter. They will arrange to have one available, at no charge to you, for your court appearance.

What Is the Difference Between Criminal and Civil Courts?

In a criminal case, a person committed a crime and the State of Nevada or a city is the plaintiff. The purpose of a criminal case is to hold the defendant accountable for his/her illegal actions. Criminal courts are concerned with punishing the defendant. A defendant in a criminal case is entitled to an attorney when he/she cannot afford one. The State must prove beyond a reasonable doubt that the defendant committed the crime

In a civil case, the plaintiff is a private party who files a civil lawsuit against someone who injured the plaintiff in some fashion. A defendant in a civil case is not entitled to representation if they cannot afford an attorney. The plaintiff must prove by a preponderance of the evidence that the defendant injured the plaintiff, which is a lesser standard than required for criminal cases.

Do I Need to Hire My Own Attorney?

It depends. In a criminal case, the prosecutor is given the sole responsibility for handling the case. A private attorney cannot prosecute a criminal case. The prosecutor represents the State or city against which a crime was committed.

If the case is a simple misdemeanor and the damages are minimal, you probably do not need to hire a private attorney to advise you. However, if you suffered extensive loss, you may want to consult with a private attorney regarding the possibility of filing a civil lawsuit against the defendant.

Are There Any Special Rules for Children Who Testify?

Yes. NRS 174.519 provides that when the victim or witness is younger than 16, the prosecutor must request that the court, in its discretion, consider the effect that a delay in the beginning of a trial would have on the child in setting the trial date.

And NRS 178.571 provides that if the victim or witness is a minor, or if the crime involves a sexual assault, an attendant may be present during the preliminary hearing and trial. The attendant may sit next to the minor or may stand in a strategic location.

Can I Testify Without the Defendant Being There?

No. The defendant has an absolute right guaranteed by the United States Constitution to “face his accusers.” However, the defendant does not have the right to attempt to intimidate you while you testify or your choice to testify. Notify the prosecutor if the defendant tries to intimidate you before, during or after you testify.

Am I Entitled to a Witness Fee for Testifying?

Yes. NRS 178.5696(3) provides that the prosecutor must inform each witness of the fee to which they are entitled for testifying and how to obtain that fee.

As a Victim of Domestic Violence, Is There any Additional Protection For Me?

Yes. A court may order a temporary or extended order for protection for a victim of domestic violence, stalking or harassment. Contact the prosecutor and/or court for more information on how to obtain an order.

Can I Fire My Prosecutor and Get Someone Else to Prosecute the Defendant?

No. Remember that the prosecutor represents the State or the city, and is either elected or appointed to fulfill that function. If you have concerns about the prosecutor, contact the city attorney, district attorney or Attorney General and notify them of your concerns.

