

# Victim FAQ's (Frequently Asked Questions)

**CRIME CAN BE A FRIGHTENING EXPERIENCE.** You often feel violated by the intrusion into your life and are left with feelings of anger and pain. While the criminal justice system is designed to protect, support and serve our communities, most citizens do not learn about it until after they become victims of crime --- the worst possible time to try to understand the complex roles and responsibilities of each of the "players" in the system. However, no criminal can be successfully prosecuted without the valuable assistance of victims and witnesses. This page will answer many of the most common questions asked by crime victims. Other pages summarize how a criminal case proceeds through court, and explain legal terms commonly used in criminal cases.

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I feel that a crime has been committed. How do I press charges? Can I report a crime directly to the Prosecutor's office?

Crimes are investigated by the police, not the Prosecutor. Crimes should be reported to the police department or other law enforcement agency which has jurisdiction where the crime occurred. Once the initial investigation has been completed, the police department's report is filed with the Prosecuting Attorney. The Prosecutor reviewing the warrant request may send the case back to the police for further investigation. Ultimately, the reviewing Prosecutor decides what charge(s), if any, will be issued and when the charges(s) should be issued.

How do I press counter-charges against someone?

This request generally arises from assaults. Regardless of whether you have already been charged, if you believe that a crime has been committed against you, go to the appropriate police department to file a complaint and request an investigation. Your case will be reviewed on its own merits.

I am the victim and I want to drop the charge. Can I?

Many people *incorrectly* believe that a victim has the power to "press charges" against the wrongdoer, or to later "drop the charges". All crimes are offenses against the community, not just the individual victim. Criminal complaints are prosecuted on behalf of the State of Michigan, not the people who called the police or those who were personally harmed by the defendant's conduct. **ONLY** the Prosecuting Attorney can issue or dismiss charges. This is important because it takes the responsibility for prosecuting the wrongdoer off the victim's shoulders and puts it on the Prosecuting Attorney's, where it legally belongs. It also means that the defendant cannot "pressure" the victim into dropping the charges.

Although the decision whether to prosecute or not prosecute is ultimately up to the Prosecuting Attorney, the victim's opinion is important and the Prosecuting Attorney will take those wishes into account when making his or her decisions regarding the case. A

variety of factors are taken into account when deciding whether to honor a complainant's request not to proceed with a prosecution, including the nature and extent of the defendant's prior criminal history, the severity of the alleged crime, whether the defendant has other pending charges in the criminal justice system, and future danger the defendant poses to the community (including the current victim).

#### **Why are some cases plea bargained?**

There are not enough prosecutors, judges, courtrooms, or trial days on the calendar to put every criminal case issued in Michigan before a jury. For those defendants taken to trial, or for those who plead guilty before a trial, there are not enough jail cells in the state to hold them. These practical demands, plus the defendant's speedy trial rights, the seriousness of the cases, the strengths or weaknesses of cases, the victim's wishes, public safety, punishment, rehabilitation, and deterrence are all interests that are considered by the Prosecutor when deciding how to proceed. A plea agreement is always designed to balance these competing interests. Most cases are resolved in a relatively short time by the defendant's plea --- many times a plea to the charged offense.

**I want a restraining order to keep someone away from me. Will the Prosecuting Attorney do this for me?**

The Prosecuting Attorney may be able to request the judge to add a "no-contact" condition to the defendant's bond. You should also apply for a Personal Protection Order (PPO).

#### **What if someone threatens me?**

Concerns about your well-being and safety after being victimized or witnessing a crime are normal. If you have any fears or receive any threats concerning your involvement in a case, you should immediately contact the law enforcement agency that investigated the case, or the Prosecuting Attorney's Office. In an emergency situation, call 911. Do so as soon as possible so that the threats can be documented and appropriate action taken. There are laws to protect you against people who attempt to bribe, intimidate, threaten, or harass you.

#### **What if the defense attorney contacts me?**

In representing a client, a defense attorney may contact you and want to talk to you about the case. Keep in mind that you do not have to talk to anyone about the crime, including the defense attorney or their investigator prior to testifying in court. If you choose to do so, always request proper identification and an explanation of the purpose of the interview. If you have any concerns about talking with a defense attorney or their investigator, you are encouraged to contact the Assistant Prosecuting Attorney in charge of your case and to have him/her with you at the time of the interview.

### **Can you tell me what the defendant's sentence will be?**

Sentencing in Michigan varies with the crime and can be the most confusing part of the criminal process. A few crimes have mandatory sentences, but most often the sentences are at the judge's discretion. Because of that, a prosecutor can only guess (or hope) what the actual sentence may be.

◆ **Misdemeanor offenses** generally carry a maximum sentence of 90 days or 1 year in the county jail, can result in probation for up to 2 years, counseling, community service and driver's license sanctions.

◆ **Felony offenses** range from a minimum sentence of 366 days to a maximum of life in prison. Sometimes, the statutory maximum time for an individual crime is lengthened because the defendant is a repeat offender. In addition to incarceration in jail or prison, convicted felons may be sentenced to probation.

### **How do I get my property back?**

If your property was stolen and recovered by the police, it can sometimes be returned to you before the case is done; in most cases, Prosecutors need to keep the property secured in police custody to ensure that it will be preserved and available if needed at trial. Ultimately, the decision whether evidence is released must be made by the Prosecuting Attorney's office's attorneys. Contact that office to see when your property can be released.

### **The defendant is not paying court-ordered restitution. Who can help me?**

Call the Court's probation department and ask for the probation officer who is assigned to the case. The probation officer can help you get your money if restitution was a condition of the defendant's probation and if the defendant is still on probation. Otherwise, see a private lawyer, because the restitution order is a court order that you can enforce like any civil judgment.

I was the victim of a violent crime. Will the Prosecuting Attorney pay for my hospital bill and my lost wages, help me collect for pain and suffering, etc?

No. However, the Michigan Crime Victim's Compensation Fund may be able to help you with unreimbursed medical expenses and lost income. With regard to compensation for pain and suffering, you may need to contact a private attorney.

I have a question which is not answered in your FAQs.

Call or visit your Prosecuting Attorney's office. However, remember that a Prosecuting Attorney's Office is not a "free legal clinic" for legal information. A public Prosecutor cannot give legal advice on private legal issues.

Dealing with being a victim of a crime

Members of the Prosecuting Attorneys Association of Michigan (PAAM) recognize that all crime victims experience loss no matter the type of crime perpetrated. While there are different kinds of losses, each can be profound and change the way you view the world. Emotional trauma is a common element for nearly all victims, you are not alone. The trauma you experience as a crime victim can alter your life but you can learn ways to cope. One of those ways is to assist in the prosecution of the offender.

Michigan's Prosecutors work hard to prevent the secondary trauma associated with prosecution. Secondary trauma can come from different sources including the slowness of the justice system, event postponements and a general feeling of not having a voice. Please know we make every effort to have a criminal case process quickly but this is not always in our control. We are very interested in your thoughts and feelings regarding your victimization. If you would like to talk to the prosecutor in your case please feel free to contact the prosecutor in the county your case is in to set up a personal appointment.

Some people around you will not understand your feelings regarding your victimization. They may not know what to say or do around you. This can include family and close friends. Please understand it is because they are uncomfortable and want to make you feel better but are uncertain how to. Because of this it is helpful for some victims to find others to support and understand them. This is why there are Crime Victim Advocates available in each county prosecutor's office to assist you throughout the court case with impact statements, social services/financial resources and even information regarding court events.

Below you will find links to several resources that will help you understand and be a part of this process

