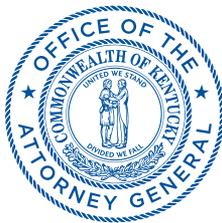


CRIME VICTIMS' INFORMATION GUIDE

A Publication of the
Office of Victims Advocacy
in Collaboration with the
Survivors Council



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COMMONWEALTH OF KENTUCKY
OFFICE OF THE ATTORNEY GENERAL

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June 23, 2020

Dear Fellow Kentuckian:

As Attorney General, I am committed to advocating for crime victims and strengthening our victim services system. Our office is working hard every day to ensure victims have the support and assistance they need to recover from the devastating effects of crime. Our Office of Victims Advocacy supports crime victims by providing advocacy and resources, including our Crime Victims' Information Guide. Developed in conjunction with the members of the Survivors Council, this guide assists victims in navigating the criminal justice system and accessing protective, emergency, social, medical, and financial resources.

According to the latest study from the Bureau of Justice Statistics, among U.S. residents age 12 or older, the number of violent-crime victims rose from 2.7 million in 2015 to 3.3 million in 2018, an increase of 604,000 victims. And, in 2018 alone, 16,038 violent crimes were reported in Kentucky. These statistics are unacceptable, and our office is working to reduce incidents of violent crime in our communities and to help victims locate the services they need.

If you or someone you know has been a victim of a crime, please know that we are committed to doing all that we can to ensure that you are given the assistance, support, and resources needed to navigate this process successfully.

Please do not hesitate to reach out to our Office of Victims Advocacy at (502) 696-5312 if you need additional assistance or have questions about the material included in this guide.

Sincerely,

Daniel Cameron
Attorney General

About the Office of Victims Advocacy

The [Office of Victims Advocacy](#), within the Office of the Attorney General, was formally established in 1985 to provide enhanced assistance to victims of crime and technical assistance to law enforcement and prosecutorial based victim services programs. The OVA works to ensure justice and healing for the Commonwealth's crime victims and to ensure that they are treated with respect and dignity as their case proceeds through the criminal justice system.

To help us achieve our mission, we:

- Assist victims and their families in understanding their rights, and help them get the support they need to recover from the trauma of crime;
- Strengthen victim service systems by providing training, legislative and research services, educational and informational materials, project development and technical assistance;
- Encourage and improve victim-centered, trauma-informed investigation and prosecution by providing training, resources and technical assistance to law enforcement and prosecutors.

We also provide court accompaniment and other advocacy services in cases prosecuted by our special prosecutions division, cases on appeal and in underserved areas.

Disclaimer: The Victims' Information Guide is not to serve as legal advice, but rather, it is meant to serve as a guide to plainly explain the process and provide resources available. Please consult an attorney if you are seeking legal advice.

*The Office of the Attorney General would like to extend a special thank you to the following members of the inaugural **Survivors Council** (2017-2018) for their insights, dedication and hard work in assisting in the development of this guide.*

Tammy Adams
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Introduction: Crime Victims' Information Guide

Nothing in life prepares us for the traumatic experience of violent crime. Whether you or a loved one has been a victim of [homicide](#), assault, [child abuse](#), [sexual assault](#), [domestic violence](#), [elder abuse](#), [stalking](#), [human trafficking](#), or any other crime, **you are not alone**.

You may wonder if what happened to you is a crime. It is not uncommon for many survivors of a crime to question themselves and for criminals to manipulate you so that you question if what happened is a crime. Domestic violence, dating violence, stalking, human trafficking, sexual assault, child sexual abuse, and elder abuse/exploitation are all crimes in which offenders may use psychological manipulation to make victims feel as if they are at fault, or as if what is happening to them is not criminal.

Whatever experience has brought you or a loved one to this guide, we are deeply sorry. This **Victims' Information Guide**, developed by the Office of Victims Advocacy in collaboration with the [Survivors Council](#), is for victims of crime and the people who support them. The hope is to provide meaningful information and necessary resources in a format that is easy to access and understand. It is specifically written from the perspective of what a victim may encounter in dealing with police, service providers, and the criminal justice system. A copy of the guide is also available electronically at <https://ag.ky.gov/publications/AG%20Publications/Crime-Victims-Information-Guide.pdf>.

Whether the needs are physical, emotional, or financial, there is no doubt that victims and loved ones require assistance during all stages on their road to healing. The many questions and concerns that naturally follow during victimization can be overwhelming. Ensuring that victims and their loved ones are aware of their rights and the services available to them is an important first step in helping to rebuild their lives. Throughout the guide and at the end, there are resources and hyperlinks, which will provide contact information to help guide you to available supports and services. Additionally, this guide serves as an informative resource to explaining the process and all the key players involved throughout this process.

Impact of Trauma

How Does Trauma Affect Survivors?

Victims of crime, including those who witness violent crimes, face many complex challenges that are unique to their own experience. It is important to remember that you do

“When you first become a victim, you haven’t a clue of the fight ahead of you. You quickly learn that you have two choices, stand up or stand down. It’s when you’ve stood up long enough that you learn to become a survivor.”

Melissa Buchanan, Homicide Survivor.
Member, Office of the Attorney General
2017–2018 Survivors Council

not have to live with all of the emotions and consequences alone. The trauma of victimization can be devastating. It can alter your view of the world as a just place and leave you with new and difficult feelings and reactions that you may not understand. It is normal to feel anger, guilt, shame, insecurity, fear, powerlessness, and depression.

After trauma, people may go through a wide range of responses. Initial reactions to trauma can include exhaustion, confusion, sadness, anxiety, agitation, numbness, dissociation, confusion, and blunted affect. Responses to trauma are as varied as the people that experience the trauma.

There is no right or no wrong way to feel during this difficult time. If you are experiencing distress or need support, help is [available](#).

Many victims experience physical and/or emotional trauma. Physical trauma can take the form of serious injury or shock to the body, cuts, bruises, fractures, or even internal injuries. It may also include stress reactions, such as blood pressure, heart rate, and tight muscles. The body can begin to physically suffer from headaches, insomnia, or lack of appetite. On the other hand, emotional trauma includes wounds or shocks that can sustain long-lasting effects and it comes in different forms, such as shock, numbness, denial, disbelief or anger. Some may experience Acute Stress Disorder, which includes trouble sleeping, flashbacks, anxiety, memory problems, or other symptoms of distress. If these signs persist longer, it may develop into Posttraumatic Stress Disorder (PTSD). These reactions are all normal reactions to an abnormal event. **There are immediate resources available** ([grief](#), [mental illness](#), [substance abuse](#), or other [helpful hotlines](#)). You may also feel completely numb. Any way that you or your loved one may be experiencing this traumatic occurrence is **okay**.

Such reactions may be experienced not only by people who experienced the trauma firsthand, but also by those who have witnessed or heard about the trauma, or been involved with those immediately affected. Many reactions can be triggered by persons, places, or things associated with the trauma. Some reactions may appear totally unrelated.

Substance Abuse and Trauma

Many people who have experienced a traumatic event often turn to substance abuse as a way to cope with these feelings. The [National Alliance of Mental Illness](#) reports that 7.9 million people in the United States experience a mental health disorder and substance abuse disorder at the same time. Many turn to substances or alcohol as a way of self-medication to improve the symptoms they are experiencing. These substances might numb or dull the pain or might relax the mind and calm anxiety. Turning to these outlets can lead to an addiction and hinder the healing process. If you or a loved one is suffering from substance abuse, help is [available](#).

Normal Reactions: Acting Out of Character

It is normal for those who have experienced trauma to act out of character. Being a victim of crime often leaves someone in a mental and physical state where they are not thinking or acting like they normally do. The National Organization of Victim Assistance calls a person's regular condition, when it is not frustrated by distress or crisis, their "everyday wellness" and when stress occurs, it puts a person out of balance from this; that person normally will need to take steps to put themselves back into balance with their everyday wellness. When a person is a victim of a crime, it is different for each person.

“Resilience is the passion within you that affirms that, despite horrific events in one’s life, it is possible to elevate beyond the experience itself and transform the trauma into solidarity and protection of oneself, peers, and future generations. It is within this transformation where strength and justice are found.”

Donna Pollard, Survivor of Child Marriage,
Member, Office of the Attorney General
2017–2018 Survivors Council

The occurrence of the crime can often be experienced as a major stressor and make it more difficult for a victim to restore themselves to their everyday wellness. It is not uncommon for victims to experience physical abnormal behavior, such as fatigue, insomnia, or increase or decrease in their appetite, as a result from this type of stress. Some may experience abnormal emotional effects for moments, months, or even years. Although all experience these behaviors and thoughts differently, **no one is alone in the recovery process** and a variety of types of assistance are available.

Preventing Communities from Repeated Trauma

Crisis and trauma can ignite strong feelings of sorrow, outrage, concern, etc. Any type of harm to a member of a community may be a painful reminder of a tragedy. Effective community activism creates a strength and unity in a community to help prevent trauma and repeated crisis. Communities must be aware of the issues, recognize how it affects the community as a whole, and set goals to change going forward. Progress should be

monitored and managed and resources should be acquired to educate and inform. Pain and sorrow do not need to restrict a community, but rather, it may motivate them to take action to prevent future trauma.

Where Can I Find Trauma-Informed Assistance?

Because the emotional response to crime can sometimes interfere with a victim's day-to-day life and relationships, you might want to seek the help of a counselor or therapist to talk through and learn more about your feelings and regain a sense of control in your life. Many victims find that they can cope better where they can talk about their thoughts, feelings, and fears with someone who is knowledgeable about trauma and who has no personal connection to you or the crime. The Attorney General's Office of Victims Advocacy seeks to promote and educate about trauma-informed, [victim-centered advocacy](#) and services and can assist you in locating service providers in your area.

Where Can I Find Grief Support/Assistance?

There are a variety of grief support services available and for various types of grief. [Compassionate Friends](#) is a national organization, with chapters in Lexington and Danville, that was created to support families after a child's death and it seeks to provide

“Strength doesn't mean getting past the trauma. Strength is waking up every day after and living on....”

Tammy Adams, Homicide Survivor,
Member, Office of the Attorney General
2017–2018 Survivors Council

hope and support for every family member experiencing this type of grief. [Parents of Murdered Children, Inc.](#) is a national organization that provides support and assistance to all survivors of homicide while working to create a world free of murder. [Mothers Against Drunk Driving](#) offers support for survivors, family members, friends, and concerned citizens impacted by drunk or drugged drivers

through guidance in the justice system, references to appropriate resources, support groups, supportive materials, and connecting similarly experienced survivors. [Survivors of Violent Loss Network](#) is an online resource with a mission to provide a lifeline of hope and healing, addressing the issues of traumatic grief for those who live and work to rebuild their lives after a homicide, suicide, drunk driving, or terrorist fatality. The [Louisville Metro Police Department](#) has formed a homicide support group to provide a safe and understanding environment where experiences can be shared and support can be provided. It is also designed to establish a better rapport within the community and bridge gaps in communication between survivors' families and the judicial process in general. [Hope After Homicide](#) is an online informational resource created specifically for Kentucky homicide survivors.

Additionally, the [Depression and Bipolar Support Alliance](#) (DBSA), [National Alliance on Mental Illness](#) (NAMI), [Substance Abuse and Mental Health Services Administration](#) (SAMHSA) and [National Mental Health Association](#) (NMHA) all seek to help individuals

if the feelings of grief persist and have lasting emotional effects. There are online resources available as well. [GriefNet](#) is an internet community providing support for those experiencing grief, death, or major loss. It provides email support groups, educational resources for a variety of traumatic events and crimes, and available off-site resources.

Survivors Council

Advancement in improving the treatment of crime victims is due largely to the efforts of individuals who have turned their victimization into strength for positive change.

In January 2017, the Survivors Council was created to advise and assist the Office of the Attorney General on matters related to victims of crime, including but not limited to awareness initiatives; training efforts; and publications, policy and legislative initiatives. Its purpose is to ensure that these efforts are victim-centered, effective and responsive to the needs of diverse victims. The Council meets

four times a year at the Office of the Attorney General and members are appointed for up to a two-year term. More information about the Council is available here: <https://ag.ky.gov/justice-for-victims/survivors-council>.

“It wasn’t until I realized I couldn’t handle my experience or trauma by myself, that I began to heal. Sharing my story released the agonizing and painful energy that lived inside of me!”

Tammy Quetot, Stalking Survivor,
Member, Office of the Attorney General
2017–2018 Survivors Council

TAKE AWAYS:

- Trauma from crime is normal and apparent in a variety of ways unique to each person.
- You are not alone after these traumatic events – there are a variety of resources available to you and your loved ones.

You've Been the Victim of Crime... What's Next?

What Happens After a Crime Occurs?

Many resources exist to help victims understand their experience and support them as they work through it. If you have been the victim of crime, the first step from a criminal justice perspective would be reporting the crime immediately to the police. The reason

*“The day I felt empowered
was the day I was believed.”*

victim/survivor

this is encouraged by law enforcement is that it allows them to start investigating and better preserves evidence, if applicable. However, some victims may not be ready, willing, or able to report immediately after a trauma. That is

perfectly valid. Advantages and disadvantages of reporting a crime to police, important time frames to keep in mind, and other information to help you make the best decision for yourself can be found later in this guide. If you do report to police, in most instances, they will take a statement from you, make sure you are safe, investigate the allegations, and put you in touch with victim service organizations in your community.

Your safety is paramount. You are the best person to assess your unique situation, including safety issues, in order to make decisions about your next steps. If you are not ready or are unable to go to the police, there may be other resources available to assist you. A list of state and federal victim service organizations can be found at <https://ovc.ncjrs.gov/findvictimservices/>.

If you are injured, seek medical attention immediately. Some injuries may not be apparent for several days.

Do You Have to Report the Crime to Police?

ALWAYS feel free to call 9-1-1 if you are in immediate danger. Generally, if you are an adult victim of crime, the decision to report a crime committed against you to law enforcement is entirely yours. Some survivors say that reporting and seeking justice helped them recover and regain a sense of control over their lives. Others may find the process intimidating, traumatizing, and foreign. Understanding how to report and learning more about the experience may take away some of the unknowns and restore a sense of preparedness. If the crime involves abuse, dependency or neglect of a child, or sex or labor trafficking involving a child, reporting may be required. Mandatory reporting requirements are discussed later in this guide.

What If Police Arrive and I Do Not Want to Talk or I Am Not Ready?

Because of trauma, you may not be able to remember everything. You should feel free to ask if you may have some more time and find out if you can have information. You should ask where you can do the interview and ask if you may bring a supportive person to accompany you. Each department is different in their investigative processes and so you should ask these questions. Some departments may want specific information immediately, but you may be able to ask for more time for a more comprehensive interview.

Mandatory Reporting

Although you do not have to report a crime to the police generally, there are a few exceptions to this rule. Kentucky law requires [mandatory reporting](#) in a few specific situations. Any person who knows or reasonably believes that a **child** is [abused, dependent or neglected](#) is required to report to state or local police, the local prosecutor's office or the [Cabinet of Health and Family Services](#). Failure to report is a class B misdemeanor for the first offense, a class A misdemeanor for the second offense and a class D felony for each subsequent offense. The same mandatory reporting rule is imposed on any person that knows or reasonably believes that a **child** is a victim of human trafficking. Finally, there is a mandatory duty to report abuse, neglect, or exploitation of any **vulnerable adult**, meaning any person with a mental or physical disability who is unable to manage their resources, carry out activities of daily living, or to protect themselves.

What Are the Possible Advantages and Disadvantages of Reporting?

“You are still a victim even if you don’t report.”

| Possible Advantages: | Possible Disadvantages: |
|--|---|
| The perpetrator may be held accountable. | There is no guarantee of charge and conviction. |
| The victim may feel a sense of closure. | A conviction may not bring closure. |
| Reporting may validate the victim's feelings. | It may not result in the desired outcome for the victim. |
| The victim may be eligible for Crime Victim Compensation. | Victims may feel that they have to re-live the experience. |
| An arrest and/or conviction may prevent the perpetrator from victimizing others and escalating in criminal behavior. | Victims may receive unwanted attention and exposure or face retaliation from community members. |
| An arrest and/or conviction may show a pattern and possibly strengthen other cases against the perpetrator. | A report and/or conviction may not prevent the perpetrator from victimizing others. |

Do I Need an Attorney?

Generally, once a report is made and if an arrest is made or a citation is given, then a prosecutor will represent the state in the criminal court process. The prosecutor does not technically represent the victim but is required by law to consult with and provide information to the victim throughout the case and typically considers the impact of the criminal process on the victim, the victim's desired outcome, etc. in making decisions regarding the case.

A private attorney can assist with identifying legal options outside of the criminal justice system. Regardless of how a criminal case concludes, if initiated at all, crime victims may have a civil cause of action against responsible parties. Unlike criminal court, civil court will not assign a prosecutor for the case, so a private attorney would be advisable. A civil court will not seek to determine guilt or innocence nor will it place a party in jail. Rather, it seeks to determine if the offender is liable for injuries or damages as a result of the crime. While a court can never reverse the trauma that was caused, the civil court may award money to assist a victim in rebuilding their lives and restoring damages caused. If you are in need of an attorney and do not know one to call, a list of Kentucky Lawyer Referral Services can be found [here](#). Additionally, the [National Crime Victim Bar Association](#) may be able to provide a referral by calling (202) 467-8716. If you cannot afford an attorney, a [legal aid program](#) may be able to help.

You may also want to contact a private attorney regarding other civil remedies or options such as the possibility of obtaining a protective order (EPO, DVO, IPO) if you are concerned for your safety; about any immigration concerns that may have come to light as a result of your victimization; about any potential violations of the American's With Disabilities Act that hindered your ability to participate fully in the criminal justice process; or any concerns regarding violations of your rights and remedies available to you under TITLE IX regarding crimes committed on the campus or otherwise related to an educational institution campus or activity.

TAKE AWAYS:

- Generally, there is no requirement to report a crime.
- There are exceptions where it is mandatory to report.
- There are positives and negatives to reporting a crime – it is your decision to make!
- Your safety is of the utmost importance!

What Are “Victim Advocates” and How Can They Help Me?

What Is an Advocate and What Assistance Can They Provide?

Victim advocates are professionals trained to support victims of crime. They provide information, support, resources, and assistance and they explain the complexities of the justice system and the variety of specialized resources available to victims. These advocates are typically well acquainted with the services available in their local area and can often assist you in accessing them. While advocates can provide information about and accompaniment to criminal court proceedings, often advocates are available to provide assistance in additional areas such as those below. A map of the victim advocates employed by prosecutor and law enforcement offices in Kentucky is available [here](#).

Assistance and Advocacy at a Hospital

There are various services available to those seeking help at a hospital. There are sexual assault programs/rape crisis centers available throughout the state that provide 24/7 hospital advocacy in sexual assault and abuse cases. By law, all hospitals that provide 24-hour emergency care, must be able to provide a sexual assault forensic exam (SAFE) by a physician or other qualified medical professional. Often this examination is provided by a specially trained sexual assault nurse examiner (SANE). A hospital advocate from the regional rape crisis center should automatically be called to the hospital to be available to assist and advocate for you if you so choose. In most cases, the advocate may accompany you during the exam, if you prefer. Regardless, it is the advocate’s mission to provide support, information/resources, and advocacy. The victim should not be billed for the SANE exam (although insurance can be billed), and any additional medical expenses may be eligible for crime victims compensation. Information about this program is available [here](#).

In non-acute cases of child sexual abuse the medical examination may be performed at a medical clinic within the regional Children’s Advocacy Center (CAC). Alternatively, if the child is first seen at the hospital, a follow-up examination may be performed at the CAC medical clinic. In either situation, a trained advocate will be available through either the regional rape crisis center or children’s advocacy center.

Finding a Safe Place to Stay

If you are in need of a safe place to stay as a result of your victimization, a victim advocate may be able to assist you in finding a place to meet your housing and related needs.

Below are two common sources for these services. Victim advocates are typically very familiar with services in the local area and may be aware of additional shelter services in your area and able to assist you in accessing those services.

Safe Place is a program that seeks to help those under the age of eighteen (twenty-one in some communities) that are in need of immediate help and protection. This program provides a safety net for children and teens in the community and seeks to provide immediate help before a situation may escalate to a crisis. Safe Place designates schools, libraries, fire stations, and other organizations as “Safe Places”. Safe Place is operated by agencies that provide counseling and shelter for children and teens. After arriving at a designated Safe Place, a volunteer or agency member will arrive and bring the teen or child to a shelter house, where they will be provided necessities: food, clothing, hygiene products, showering facilities, transportation to school, mediation services, and any medical attention that might be required. In some areas, such as Louisville, housing may also be available. Safe Place is in various locations across Kentucky and can be found [online](#) or you may text the 24/7 hotline at 69866 with the word “safe” and your current location.

Domestic Violence Shelters. Along with children and teens, adults also should have a safe place to stay. For those who are victims of domestic violence, there are fifteen regional domestic violence programs in Kentucky that seek to provide secure shelter for victims and their children. These programs additionally provide support groups, connections to other resources, case management, safety planning, and referrals to other community resources. You can locate the shelter nearest you [here](#).

Obtaining a Protective Order

Advocates from the regional domestic violence program/shelter and in some cases, those employed by a prosecutor’s office or law enforcement agency, are available to accompany a victim throughout the protective order process including at the hearing. Although advocates cannot give legal advice, they can provide a wealth of information and support as you navigate this process.

What Is a Protective Order?

A protective order is a court order, signed by a judge, designed to prevent further acts of domestic violence, dating violence, sexual assault, or stalking. In Kentucky, there are two (2) types of long-term protective orders: domestic violence orders (DVO) and inter-personal protective orders (IPO).

To ask for a protective order you should go to the Circuit Court Clerk’s office either in the county where you usually live or in the county to which you have fled to escape the abuse. You will be asked to fill out a form called a petition. The person who files the petition is the petitioner and the person filed against is the respondent. In the petition, you will explain what happened and what your relationship is to the respondent. A judge will

review the form and decide whether or not to set the matter for a court hearing. A long-term (up to three years) DVO or IPO cannot be issued until after a hearing.

If you are the petitioner, you may ask the judge to give you an emergency protective order (EPO) or temporary interpersonal protective order (TIPO) which will protect you until the hearing.

After the hearing, the judge will decide whether or not to issue a DVO or IPO.

Protective orders should be available **24 hours a day, seven days a week**. If you need an order **after regular business hours** contact your local police or [domestic violence program](#).

Who Can Request a Protective Order?

A petition for a **domestic violence order** may be filed by family members (e.g., spouses, ex-spouses, parents, children, grandparents, grandchildren), couples who have lived together and couples who have a child together.

A petition for an **interpersonal protective order** may be filed by people who are, or have been, in a dating relationship; people who have been sexually assaulted and people who have been stalked.

An adult may file on behalf of a **minor victim**, but a minor may also be allowed to file for himself or herself.

What Can a Protective Order Do?

A judge can order the respondent to: have no contact with you, your children, or others who might need protection either in person, by phone, text, email, social media, or through friends or family; stay away from your home, school, workplace, or other places you may likely be; stop abusing or threatening you, and/or leave a shared home. If you have children in common, the court may give you temporary custody and set up a visitation schedule, or order child support.

Do I Need an Attorney to Get a Protective Order?

You are not required to hire an attorney, but you may wish to do so. The respondent may or may not hire an attorney to help them with their case. Sometimes you may be able to get an attorney for free through your local [legal aid office](#).

Additional information about the protective order process, provided by the Kentucky Coalition Against Domestic Violence, can be found [here](#). Additional information from the Kentucky Administrative Office of the Courts can be found [here](#).

Recovering Costs Incurred as a Result of My Victimization

The Kentucky Claims Commission (KCC) is a state agency that administers Kentucky's Crime Victims Compensation Fund (CVCF). The purpose of this fund is to assist "needy persons who are victims of criminal acts and who suffer bodily or psychological injury or death as a consequence...." The CVCF considers payment of or reimbursement for expenses related to crimes occurring in Kentucky, **when no other resources are available.**

Allowable expenses include: medical/dental expenses, funeral/burial expenses up to \$5000, mental health counseling expenses for two years, lost wages not to exceed \$150 per week, loss of support not to exceed \$150 per week and eye glasses or corrective lenses. The maximum award per victim is \$25,000.

Requirements for receipt of compensation: claimant must be an innocent victim of crime or a party who is required to pay for the victim's crime related bills but has no other means of payment; the incident must be reported to law enforcement within 48 hours or have a justifiable reason for not doing so; claimant must cooperate with law enforcement and prosecution except in cases of domestic violence and sexual assault; and provide a social security number or other government issued ID.

A claimant must fill out an application and return it to the Crime Victim Compensation office. The application can be found [online](#). All claims must be filed within five (5) years of when the criminally injurious conduct occurred or was discovered, otherwise good cause must be shown for the delay. Your victim advocate can answer basic questions about the claims process and assist you in completing and submitting the application to the CVC office.

Specialized Advocates/Services Available to Victims of Certain Crimes

In addition to prosecution- and law enforcement-based advocates who typically provide services for victims of all types of crimes, specialized advocates and/or services are available in Kentucky for victims of the following:

- [Sexual Assault](#)
- [Domestic Violence](#)
- [Human Trafficking](#)
- [Child Abuse/Child Sexual Abuse](#)
- [Driving Under the Influence](#)
- [Elder Abuse](#)

TAKE AWAYS:

- Advocates may be available to assist you if you seek help at a hospital.
- Advocates are available to assist you in finding a safe place to stay.
- Advocates are available to assist you in obtaining a protective order.
- Advocates are available to assist you with the Crime Victim Compensation process.

The Investigative Process

Is There a Time Limit for Reporting to the Police?

Ideally, crimes should be reported to law enforcement as soon as possible after commission or discovery of the crime. However, in some situations there may be barriers to reporting. Fear, shame, guilt, etc. may discourage some victims from coming forward immediately. Other victims may delay reporting if the perpetrator is a friend or family member. Each case is different. In all cases, however, delayed reporting can result in physical evidence becoming lost or not readily accessible. Witness memories may fade or witnesses may become unavailable. In Kentucky, a delay in reporting is not necessarily fatal to potentially filing charges in felony cases.

The crime may have occurred years, even decades, ago. Under Kentucky law, prosecuting a **felony** is not restricted to a time limit and therefore, prosecution of the crime may be commenced at any time after it occurs. On the other hand, a misdemeanor must be prosecuted within a year after it is committed unless the misdemeanor offense comes within KRS Chapter 510 (sexual offenses). In cases where the offense is a misdemeanor sexual offense as defined in KRS Chapter 510 **and** the victim is under the age of eighteen (18) at the time of the offense, the prosecution of the offense must be commenced within five (5) years after the victim attains the age of eighteen (18) years.

If I Report the Crime, What Can I Expect?

A crime is typically reported to the local police or sheriff's office in the city or county where the crime occurred or the state police post that covers that county. If you are unsure, call 9-1-1 to report the crime. Once you have reported a crime, the police will investigate it. To do this, they will need to get information from you. They may call or stop by your home; they may ask you to come to the police station or they may just speak to you at the scene of the crime. If you have been injured and have to go to the hospital, they may visit you there instead.

All jurisdictions are different. Most likely, a uniformed officer will speak to you first. It is considered best practice to allow a victim to have an advocate or support person with him or her during the interview; if the crime is of a sensitive nature, you can likely request an officer of your own sex if it makes you more comfortable. You should let an officer know who you would like to be present. You have the right to accept or decline services, but this does not mean that a thorough investigation should not be conducted.

You may be given an incident number, which is the number of your case. You may also be given a contact person and other important information about services for victims. It is important that you keep your case number, because you may need it for an insurance claim, a [Crime Victims Compensation Claim Form](#), or use it to speak to the police later

about your case.

Tips for Reporting:

First of all, try to remain calm; take deep breaths and answer the questions to the best of your ability. The Police need as much information as possible to help them investigate the crime and to find other evidence. This includes:

- Descriptions of the crime, including any persons involved
- Descriptions or names of any witnesses
- Descriptions of the crime scene/surroundings
- License plate number of any vehicles, even if they were not involved in the incident, as the driver may have seen something
- Descriptions, identifying marks, or serial numbers of any stolen property
- Photos of injuries, the crime scene or other evidence
- The date and time of the incident

What Happens During the Investigation?

Understand that records or detailed information about the pending investigation may not be available to you at this time. Property may be seized as evidence and may not be released until after the case is resolved. Obtain a copy of the inventory of seized property for future reference. Keep in regular contact with the officer/detective and cooperate as fully as possible. It is important to know that lab testing may need to be done quickly and may take several months to be completed. **Inform the officer/detective that you want to be notified when the perpetrator is arrested.** A victim advocate should be able to assist in keeping you informed as to when evidence may be available to return to you, when lab testing has been completed and the results and/or when the perpetrator is arrested.

TAKE AWAYS:

- While reporting may not be mandatory or have a statute of limitations (depending on the crime), doing so earlier will assist the investigation by preserving evidence.
- After reporting, an officer will want to interview you.
- When being interviewed, remain calm and give any information that you can remember.
- Make sure to ask for the incident number and contact information for the investigating officer.
- Stay in touch with your victim advocate for regular updates on the status of the case.

The Criminal Justice System Explained

District Court

Arrest

When a person suspected of a crime is taken into legal custody for the purpose of charging him/her with a specific crime.

Arraignment

After being charged with a crime, the defendant must appear before a judge to be officially notified of the charges.

Preliminary Hearing

Typically scheduled at arraignment. A judge listens to the testimony (typically provided by the arresting officer) to determine if there is sufficient evidence that a crime has been committed and that the defendant committed the crime. Allows the defendant to be held (in jail, on bond, etc.) until a grand jury hears the case.

Circuit Court

Grand Jury Hearing

The prosecutor presents evidence by the arresting officer, victims, or other witnesses to a randomly selected group of jurors. If 9 of the 12 jurors agree that there is sufficient evidence that a crime was committed by the accused, an indictment will be returned. The **Grand Jury** is a closed, confidential proceeding.

Arraignment

Pretrial Conference

The defendant appears in court for **Arraignment** and is formally notified by the judge of the charges in the indictment returned by the Grand Jury. The Defendant enters a plea of guilty or not guilty. Victims are allowed, but not required, to attend.

Jury Trial
or
Guilty Plea

Typically, the next court date set after arraignment. The **Pretrial Conference** is the first opportunity for the defense attorney to meet with the prosecutor to discuss the case, the evidence, the facts, the defenses, the issues, and any opportunities to resolve the case before trial. More than one such conference may be held.

Sentencing

Incarceration
or
Probation

Jury Trial – If a defendant does not plead guilty, the case will be tried by a jury, where the prosecutor will present evidence for the state. The jury determines guilt and penalty

for a defendant. Investigating officers, victims, and witnesses will be subpoenaed to appear to testify under oath.

Guilty Plea – a formal response by a person accused of a crime in which they say the charges are true and he/she did commit the crime.

Sentencing –the legal process where a defendant, who has been found guilty of a crime or entered a guilty plea hears in court what his/her punishment will be.

Incarceration – confinement in a state facility for adult offenders usually those sentenced for a year or more.

Probation – conditional release of a person who has been convicted and sentenced to a term of imprisonment. Conditions are attached to the release and if not followed, they must serve the prison sentence.

Justice Through the Criminal Justice System

If you are a victim of crime, you are entitled to many rights and services in the Commonwealth of Kentucky. Many of these rights and services involve your experience with the criminal justice system and are detailed in the [Victims' Bill of Rights](#).

Criminal Charges

Although criminal offenses are committed against persons and sometimes businesses (the victim), the Commonwealth of Kentucky files criminal charges against the identified perpetrator and prosecutes the criminal matter on behalf of the state. There are four primary ways in which a prosecution is initiated:

1. A police officer files a complaint,
2. A private citizen files a complaint,
3. An arrest is made, or
4. An indictment is returned by a Grand Jury.

Once an arrest has been made or charges filed, the defendant makes an initial appearance before the judge for an arraignment. At this time, the defendant is informed of the charges against him/her. A date is set for the next court proceeding.

The criminal justice process can be difficult to navigate and is simply not designed to meet all the needs of crime victims. Understanding a few key aspects of the process can take away some of the unknowns and help you feel more prepared.

What Are the Roles and Responsibilities of Court Personnel?

Prosecutors

The **County Attorney's** office is often the victim's first contact with the criminal justice/court system. The office is responsible for prosecuting any and all violations which are determined to be misdemeanors – charges which carry a sentence of up to 12 months or less in jail. If cases are serious enough to qualify as felonies, they may be sent to the Grand Jury, which will determine if they are to be resolved in the Circuit Court (felonies) or returned to District Court to be disposed of as misdemeanors.

The **Commonwealth's Attorney** prosecutes cases that have been determined by the Grand Jury to be felony cases. These are the more serious cases, having a sentence of one year or more and being punishable by imprisonment in the penitentiary for a term of years and in a few cases, death.

Both the [County Attorney and the Commonwealth's Attorney](#) do not directly represent the victim of a crime. They represent the state and their primary mission is to see that truth and justice are served.

Victim Advocates

Prosecutor-Based Victim Advocates are victim advocates within the prosecutor's offices that provide across-the-board services to victims of misdemeanor or felony crimes. Services can include:

- Information on the criminal justice system and notification of court proceedings
- Accompaniment to court proceedings and attorney interviews
- Assistance filing for victim compensation and restitution
- Referrals to community resources
- Explanation of the victim's role in the judicial process
- Explanation of the courts' decisions
- Guidance with victim impact statements

Each victim advocate shall perform those duties necessary to ensure compliance with the [Crime Victims' Bill of Rights](#). However, the victim advocate **shall not provide legal advice or legal counsel** to the crime victim.

Community-Based Victim Advocates generally work in an independent, usually non-profit, organization dedicated to assisting specialized victims, i.e. domestic violence, sexual assault or child abuse/sexual abuse. Victims are generally referred to community-based victim advocates by rape/sexual assault or domestic violence crisis hotlines, hospitals, or [law enforcement](#) agencies. Referrals may also come through the prosecuting attorney's offices, attorney's offices, education institutions, faith-based organiza-

tions, social service agencies, or victims' friends, relatives, or colleagues. Services can include:

- Crisis intervention and accompaniment during medical and legal appointments and interviews
- Information on anonymous reporting options and sexual assault forensic exams (including time lines for exams)
- Finding lock replacement, transportation, and childcare resources
- Accessing health services
- Obtaining professional counseling
- Finding culturally specific resources.

Defense Attorneys

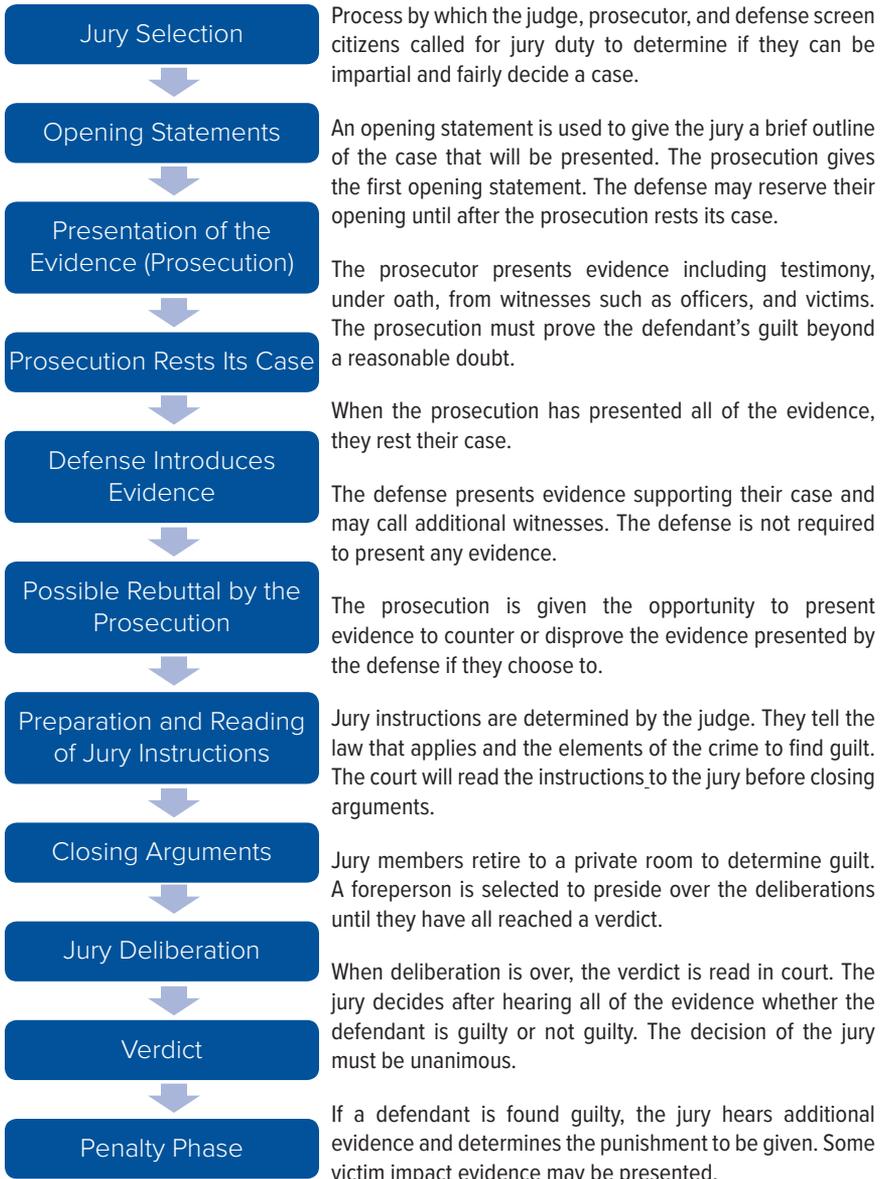
The Constitution of the United States and the Kentucky Constitution require that all persons accused of a crime have a fair trial. The role of the defense attorney is to provide representation for an accused person and protect his/her right to a fair trial. Some criminal defense attorneys are hired privately, while others are employed by or contract with the state to represent indigent persons; the latter are usually referred to as **public defenders**.

TAKE AWAYS:

- In most cases, after an arrest is made, the case is initially processed through the District Court.
- All felonies cases must be presented to the Grand Jury. If the Grand Jury returns a “no true bill”, the case is dismissed. If the Grand Jury returns an indictment on a misdemeanor charge the case goes back to the District Court. If the Grand Jury returns an indictment on a felony charge the case is processed in the Circuit Court.
- Misdemeanors are prosecuted by the County Attorney and felonies are prosecuted by the Commonwealths’ Attorney
- Depending on location, prosecutors’ offices may provide a victim advocate to assist you. Additionally, community-based victim advocates may be available to assist you.

What Can I Expect if My Case Goes to Trial?

Trial by Jury



Plea Bargains

A plea bargain or plea deal is an agreement between the prosecutor and the defense attorney/defendant that the defendant will plead guilty to a crime usually in exchange for some concession. Concession examples include a plea to a lesser charge, the dismissal of some of the pending charges, or a recommendation by the prosecutor of a lower sentence or probation. Although the County Attorneys and Commonwealth's Attorney represent the Commonwealth, not the victim, under the Kentucky Crime Victim Bill of Rights, a victim has various rights in the prosecution of a crime; this includes the right to be consulted by the attorney for the Commonwealth on a negotiated plea.

There is another type of plea, called an **Alford Plea**. An Alford Plea does not force a defendant to admit guilt, but rather they admit that the prosecution could have convicted them with the evidence they have against them. If a defendant enters into an Alford Plea, they are still convicted and the potential penalties remain the same.

Testifying

Any witness, including the victim if the victim may testify, will receive a subpoena before trial. A subpoena is a court order requiring you to be present at a certain time and place. When arriving at the courthouse, after speaking with the prosecutor or victim advocate, you will be directed to a particular area or escorted to the prosecutor's office victim/witness waiting room. Generally, you will be required to remain outside the courtroom until it is time for you to testify. After entering the courtroom, you will be sworn under oath to tell the truth. As a state's witness, the prosecutor will ask you questions first. The defense attorney will be provided the opportunity afterwards to ask questions as well. Following your testimony, you may be excused by the judge and, if so, can leave. If you are not excused as a witness, you should return to the waiting area you were at previously until the prosecutor says that it is okay to leave or reenter the courtroom. You may be required to stay the length of the trial, asked to return another time, or you may be excused. After testifying, any witness should not tell other witnesses what was said during the testimony until the case is completely over.

Tips For Taking The Stand

- **Always** tell the truth
- Think before you speak and make sure you understand the question. If you do not understand, do not be afraid to say so or to ask for the question to be repeated.
- Speak slowly and loud enough to be heard by participants in the court.
- Only tell the facts – do not assert opinions or conclusions unless asked to do so specifically.
- If you cannot recall certain facts, do not be afraid to say so. Do not try to stretch your memory and assert facts that might not be true.

- If any attorney objects to a question, do not answer until the judge tells you to answer or a new question is asked.
- Do not be afraid to say you discussed the crime with other people. At a minimum, it is known to the court that you spoke with law enforcement officers or a prosecutor, otherwise they would not know your name and involvement to begin with.
- Stay calm and do not lose your temper, even if an opposing attorney may goad your temper. It is their job to test your ability to accurately remember the facts.
- Never argue with the defense attorney – it is the job of the prosecutor to object to improper questions.
- Try to refresh your memory and picture the scene before testifying. This will assist in recalling facts more accurately when asked a question.
- Speak in your own words – do not try to memorize what you are going to say. Be yourself and go over in your mind the matters that you will be questioned about.
- Do not exaggerate – do not make overly broad statements that you may have to correct. Explain the situation in your own words and do not allow anyone to put words in your mouth for you.
- Respond orally to questions – instead of shaking your head or nodding for “yes” and “no”, say it aloud.
- If your answer was not correctly stated, correct it immediately. If it was not clear, clarify it. It is better to correct yourself on a mistake or a vague answer rather than an attorney discover an error.

Participation in the Courtroom

There are a variety of people in the courtroom during a trial. On one side, there will be the **prosecuting attorney** and on the other side, there will be the **defense attorney** and the **defendant**. A **judge** presides over the trial and is at the front of the room. The court clerk is often times seated next to the judge. The clerk makes sure everything is in place and the trial runs smoothly. Because Kentucky court proceedings are now videotaped, we no longer have **court reporters**, or **stenographers**. Instead there is typically a court employee present who monitors the video equipment to make sure there is an accurate record of the proceedings. A **jury** of twelve (or thirteen if an alternate is selected) will be seated in the jury box. **Bailiffs** are court officers whose duties are to keep order in the courtroom and to secure the witnesses.

Witnesses

Both the prosecutor and defense will often call witnesses in presenting their cases or as rebuttal to the other. There are different types of witnesses that might be called. One is an **eyewitness**, which is a witness who testifies to what they observed or heard. An **expert witness** is a specialist who is educated in a specific area which is outside the common knowledge of the jury, and testifies with respect to that specialty. Physicians who testify about medical diagnoses, firearms experts and DNA experts are examples.

A **character witness** might be someone who knew the victim, defendant, or anyone involved in the case and testifies to the personality or character of that person. Witnesses are subpoenaed to attend the trial and they are asked to wait outside the courtroom until they are called to testify. Afterwards, witnesses are not permitted to discuss their testimony with any other witness until the case completely concludes.

Jury

The jury is comprised of twelve (or thirteen, if an alternate is selected) citizens of the county who are selected and sworn to weigh the evidence and determine the facts, to apply the law to the facts and determine guilt or innocence of the accused. They are seated in the jury box on the side of a courtroom. Jurors might be writing, during a trial or testimony. You should not be alarmed if this is observed. It is to help their recollection and understanding of the evidence. Witnesses and attorneys should not discuss any matter of the case with any juror.

Penalty and Sentencing

After a defendant has been found guilty by the jury, there will be a “penalty phase” of the trial. The jury will be instructed as to the possible penalty range they can impose. The parties present evidence which the jury can consider in determining what they believe to be an appropriate sentence. After hearing and considering this evidence, the jury will recommend a sentence. After receiving the jury’s recommended sentence, the judge will set a final sentencing hearing. The judge may reduce the sentence recommended by the jury but may not increase it. The judge will consider the jury’s recommendation, the presentence investigation of the defendant and **victim impact statements**. At final sentencing, the judge will impose a penalty and decide whether a defendant is imprisoned or probated and if so, the duration and any conditions.

Restitution

“**Restitution**” is an order made by a judge, typically at the time of sentencing, requiring the defendant to pay the victim’s out of pocket expenses that were not covered by insurance and were incurred as a direct result of the crime. Restitution paid by the defendant to a victim can be ordered as a part of a criminal sentence or as a condition for probation. Restitution is available to everyone that is a direct victim of a crime. If the victim is a minor or legally incapacitated, “victim” means a parent, guardian, custodian or court appointed special advocate.

Expenses, which are eligible for restitution, include a variety of out-of-pocket losses directly relating to the crime. Although not an exhaustive list, some expenses may include: medical expenses, therapy or counseling costs, prescription charges, lost wages, lost or damaged property and insurance deductibles. Additional information can be found [here](#).

TIPS FOR TRIAL:

- When going to court, call ahead and ask if children are welcome. Not all courtrooms allow children.
- Keep a journal or notebook handy to jot down questions you might have.
- You always have a choice about whether to speak to the media or not – if you choose to do so, it is important to understand you will have little control over what is actually reported and how it might be presented to the public.
- If possible, visit the court prior to the first court date to familiarize yourself with the parking and court layout.
- Make sure you are prompt in arriving to the court.
- Dress comfortable – you will need to pass through a metal detector – but respectfully.
- Keep your records organized for easy accessibility if you need to refer back to them.

Victims' Bill of Rights

Who Is Considered a Victim?

In [Kentucky](#), provisions of the Victims' Bill of Rights apply to all felony and misdemeanor proceedings in a district or circuit court, and to individuals who have suffered direct or threatened physical, financial, or emotional harm as a result of the commission of a crime classified as any of the following:

- Stalking
- Unlawful imprisonment
- Use of a minor in a sexual performance
- Unlawful transaction with a minor in the first degree
- Terroristic threatening
- Menacing
- Harassing communications
- Intimidating a witness
- Criminal homicide
- Robbery
- Burglary in the first or second degree
- Rape
- Assault
- Sodomy
- Kidnapping
- Sexual abuse
- Wanton endangerment
- Criminal abuse
- Incest

“Victim” shall also mean a resident of this state who is injured or killed by an act of terrorism committed outside the United States.

If the victim is a minor or legally incapacitated, “victim” also includes a parent, guardian, custodian, or court appointed special advocate.

If the victim of a crime is deceased and the relation is not the defendant, the following relations are designated as “victim” for the purpose of exercising rights:

- The spouse
- An adult child
- A parent
- A sibling
- A grandparent

What Rights Do Victims Have?

If victims desire and if they provide the attorney for the Commonwealth with a current address and telephone number, they shall receive prompt notification, if possible, of judicial proceedings relating to their case, including, but not limited to, the following:

- Defendant's release on bond and any special conditions of release
- Charges filed against the defendant
- The defendant's pleading to the charges
- Trial date
- A scheduled hearing for shock probation and any resulting orders
- A scheduled hearing for bail pending appeal and any resulting orders
- Changes in custody of the defendant
- Changes in the trial date
- Trial verdict
- Sentencing date
- Any parole board hearings held for the defendant

Attorneys for the Commonwealth shall make a reasonable effort to ensure that victims and witnesses who are required to attend criminal justice proceedings are notified promptly of any scheduled changes that affect their appearances.

Attorneys for the Commonwealth shall notify the victim that upon the conviction of the defendant, the victim has the right to submit a written victim impact statement to the probation officer responsible for preparing the presentence investigation report for inclusion in the report, or to the court should such a report be waived by the defendant.

Attorneys for the Commonwealth shall make reasonable effort to ensure that victims receive prompt notification that the Attorney General will notify the victim if an appeal of the conviction is pursued by the defendant.

Consultation

Attorneys for the Commonwealth shall consult victims on case disposition including the following:

- Case dismissal
- Release of defendant pending judicial proceedings
- Any conditions of release
- A negotiated plea
- Defendant's entry into a pretrial diversion program

Pretrial Diversion and Shock Probation

A **pretrial diversion** program is a voluntary program for those who are charged with, but have not yet been found guilty of, certain misdemeanors. If a program is successfully

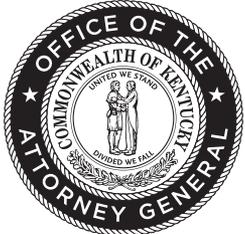
completed, a recommendation may be made to the court to dismiss the charges. The defendant may avoid getting a conviction on his or her record and there may be positive results from education, training, treatment, or counseling received by the defendant as a requirement for participation in the program. The attorney for the Commonwealth shall consult a crime victim on proceedings that include conditions of release and pretrial diversion programs. Pretrial diversion cannot be offered to those charged with a crime for which probation, parole, or conditional discharge is prohibited.

In contrast to pretrial diversion, shock probation is considered after a defendant is convicted and sentenced to imprisonment. Upon the defendant’s motion, the court is asked to consider placing him/her on probation. Attorneys for the Commonwealth are required to make reasonable efforts to ensure that victims are notified if the defendant is scheduled for a hearing for shock probation and results from that hearing.

Other Provisions

Attorneys for the Commonwealth shall:

- Promptly return a victim’s property held for evidentiary purposes unless there is a compelling reason for retaining it.
- Provide information on obtaining protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts.
- Upon request by a victim or witness, assist in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absences from work.
- Attorneys for the Commonwealth may request a speedy trial when the victim is less than sixteen years old and the crime is a sexual offense.

| YOU HAVE RIGHTS | |
|---|--|
| YOU HAVE THE RIGHT TO: | YOU MAY REQUEST YOUR RIGHT TO: |
| Receive certain available information such as obtaining assistance from a victim advocate. | Assistance in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absences from work. |
| Receive notification regarding certain information such as Defendant’s release on bond. | Crime Victim Information Hotline (800)-372-2551  |
| Consultation on the disposition including case dismissal. | |
| Have the Attorney General notify you if an appeal of the conviction is pursued by the Defendant. | |
| The prompt return of property held for evidentiary purposes unless there is a compelling reason for retaining it. | |
| Submit a written victim impact statement upon conviction | |

Victims Rights Card: front

| YOU HAVE RIGHTS | |
|---|--|
| YOU HAVE THE RIGHT TO: | YOU MAY REQUEST YOUR RIGHT TO: |
| Receive certain available information such as obtaining assistance from a victim advocate. | Assistance in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absences from work. |
| Receive notification regarding certain information such as Defendant's release on bond. | Crime Victim Information Hotline (800)-372-2551 |
| Consultation on the disposition including case dismissal. | |
| Have the Attorney General notify you if an appeal of the conviction is pursued by the Defendant. | |
| The prompt return of property held for evidentiary purposes unless there is a compelling reason for retaining it. | |
| Submit a written victim impact statement upon conviction | |

Victims Rights Card: back

V.I.N.E.

Victim Information and Notification Everyday (V.I.N.E.) is an automated, statewide victim notification system. Currently V.I.N.E. consists of three (3) services: offender status, court services and protective order status. V.I.N.E. Offender Status is a computerized system that contains information on inmates, including their status, location, parole eligibility, and sentence expiration. It provides notification to victims, law enforcement, and other concerned citizens. It can be accessed 24/7 and all registered persons will be contacted

To register for notification, call: (800) 511-1670. You must register for each service separately.

by phone or email when an inmate is scheduled for release or if they were to escape custody. V.I.N.E. Protective Order notifies the registered party about the status of protective orders including when the person it is against attempts to purchase a gun. This service is limited to felonies. You can register here for V.I.N.E. Protective Order. V.I.N.E. Court Services notifies you of the status of a case and any upcoming proceedings. Go to courts.ky.gov and select VINE Court Services to register or conduct a search.

Victim Impact Statements

To a Sentencing Judge

After a guilty plea or guilty verdict, and before sentencing, the victim should be notified by the prosecutor of the right to make a Victim Impact Statement ("VIS"). Although no specific form is required, a form may be helpful to you in deciding what information you

want to provide and organizing the information. Often, a form will be provided by a victim advocate or the prosecutor. If you prefer to use a form and one is not provided, sample forms can be found in the sidebar of this page.

The VIS will be given either to the probation officer assigned to the case to be included in the presentence investigation (PSI) report or to the court directly if the defendant waives the PSI. It is important for you to return the VIS to the victim advocate or prosecutor by the date requested so that it can be considered by the judge prior to sentencing. The impact statement may contain, but need not be limited to, a description of the nature and extent of any physical, psychological, or financial harm suffered by the victim, the victim's need for restitution and whether the victim has applied for or received compensation for financial loss, and the victim's recommendation for an appropriate sentence.

The right to submit a VIS at sentencing is specifically limited to submission of a written statement. However, judges may, and often do, permit the victim to give an oral statement at sentencing.

During Penalty Phase of Trial

While not technically a victim impact statement, KRS 532.055 allows some victim impact evidence/testimony to be admitted during the penalty phase of the trial. While this is not a right and the evidence to be introduced is within the discretion of the prosecutor, it may be an opportunity for a victim to make an oral statement. If you are interested in giving such testimony you should ask the prosecutor if this might be an option for you.

To the Parole Board

As the victim, you also have the right to submit a VIS to the Parole Board for consideration when the defendant becomes eligible for parole. While the VIS the victim provided at sentencing can be considered, the Parole Board prefers victims to submit a new VIS at this point. If you keep the contact information provided to the Parole Board up-to-date, they will keep you notified of any Parole Board proceedings and how you may participate. You can update your contact information by contacting the Parole Board at (502) 564-3620.

At Parole Board proceedings, the KRS 421.530 right to submit a VIS is limited to a written victim impact statement. KRS 439.340 does, however, allow victims to submit oral or written "comments" at the hearing, as to all issues relating to the parole of a prisoner, if prior notice is given to the Board. For more information see the [Parole Board's Victim Services Frequently Asked Questions](#).

TAKE AWAYS:

- Various rights are provided to victims of specified crimes.
- The term "victim" may extend to family members in limited circumstances.

TAKE AWAYS *(cont'd)*

- Victims have the right to be consulted by the attorneys for the Commonwealth regarding disposition of the case.
- Victims have the right to be notified by the attorneys for the Commonwealth of most court proceedings.
- V.I.N.E. is a court service that provides telephone or email notifications for changes related to incarceration status (VINE Offender Status), upcoming court proceedings (VINE Court Status) and protective orders (VINE protective Order).
- Victims have the right to present a Victim Impact Statement to a sentencing judge, and to a parole board, if applicable.

What Happens After the Trial?

The Appellate Process

Every person convicted of a crime has the right to an appeal to a higher court. After a conviction, a defendant who intends to appeal, must file a Notice of Appeal within 30 days of sentencing. He/she then has 60 days, after the court record becomes available for review, to write his/her brief or statement of arguments as to why the conviction should be reversed or dismissed. Victims will be notified by the OAG's Office of Victims Advocacy when an appeal is filed. The OAG's Office of Criminal Appeals is responsible for representing the Commonwealth in all criminal appeals and will file the response brief. The appellate court (Kentucky Court of Appeals or Supreme Court) may hear oral arguments. Oral arguments are limited to legal arguments made by the attorneys. No testimony or other evidence is provided or considered. After hearing arguments, the court will either uphold the conviction or reverse the conviction and, in most cases, order a new trial. If there is a claim of violation of a federal constitutional right, review may be sought in the Federal Court System. More information about the appellate process can be found [here](#).

Parole Board Hearings

The Kentucky Parole Board conducts parole and revocation hearings for convicted felons. The Board determines if it would serve the best interest of society to allow an offender to serve a portion of their sentence in the community supervised with conditions of parole. The Board sets the conditions if an offender is released on parole and they can revoke parole. Some conditions can include, but are not limited to, no contact with a victim or their family, completion of a substance abuse program, etc.

Under Kentucky law, there are procedures put in place to allow a victim to provide written and verbal statements to the Parole Board. When a defendant becomes eligible for parole review, the Parole Board will notify a victim about their eligibility. A victim of a violent crime has the right to make a personal appearance before a Parole Board; this is called a victim hearing and it is a confidential proceeding between the Parole Board and the Victim. A victim advocate may assist any victim with submitting a Victim Impact Statement and can accompany them to a victim's hearing at your request. The Parole Board may consider the Victim Impact Statement and the effect of the crime on the victim in making its determination. More information on the parole board process is available [here](#) and information on victim services and participation in the parole process is available [here](#).

Sex Offender Registry

The Kentucky State Police maintains an online public database of convicted sex offenders. It seeks to promote safety and awareness and to alert possible victims, not to punish or embarrass. The sex offender registry website can be found [here](#).

What Resources Are Available to Help?

Crime Victim Compensation

The Kentucky Claims Commission (KCC) is a state agency that administers Kentucky's Crime Victims Compensation Fund (CVCF). The purpose of this fund is to assist "needy persons who are victims of criminal acts and who suffers bodily or psychological injury or death as a consequence..." The CVCF considers payment of or reimbursement for expenses related to crimes occurring in Kentucky, **when no other resources are available**.

Allowable expenses include: medical/dental expenses, funeral/burial expenses up to \$5000, mental health counseling expenses for two years, loss wages not to exceed \$150 per week, loss of support not to exceed \$150 per week and eye glasses or corrective lenses. The maximum award per victim is \$25,000.

Requirements for receipt of compensation: claimant must be an innocent victim of crime or a party who is required to pay for the victim's crime related bills but has no other means of payment; the incident must be reported to law enforcement within 48 hours or have a justifiable reason for not doing so; claimant must cooperate with law enforcement and prosecution except in cases of domestic violence and sexual assault; and provide a social security number or other government issued ID.

A claimant must fill out an application and return it to the Crime Victim Compensation office. The application can be found [online](#). All claims must be filed within five (5) years of when the criminally injurious conduct occurred or was discovered, otherwise good cause must be shown for the delay. Your victim advocate can answer basic questions about the claims process and assist you in completing and submitting the application to the CVC office.

Civil Justice Remedies Available

Finding an Attorney

While there are more attorneys that are representing crime victims in civil court, very few specifically identify themselves as "crime victim" attorneys. The [National Crime Victim Bar Association](#) is able to provide crime victims with referrals to local attorneys that

specialize in victim-related litigation in civil court. Crime victims may fill out a referral form online or call (202) 467-8716.

Attorney Selection Considerations

An important consideration in selecting an attorney is that the relationship is able to have effective and free communication. Because some information may be sensitive, a client should feel comfortable discussing the details and information fully to their attorney in order to retain competent and diligent representation. On the other end, the attorney should be able to explain effectively and clearly the legal issues and proceedings to victims and should be responsive and open. Both parties should be explicitly clear in their reasonable expectations and should be in agreement.

Additionally, a crime victim should fully comprehend and read a contract before signing for the representation by that attorney. It is important to ask any questions that you may have and have any issues clarified so that they may enter into an agreement competently and fully informed. A crime victim should feel free to consult with various attorneys for representation before signing a contract.

Questions Your Attorney Might Ask

In order to fully represent you, an attorney will need open and honest answers to fully understand the situation. To do so, they will often ask a variety of questions relating to the suit. You will be asked about the criminal event itself, including the location, date, series of events, investigation, etc. They may also ask about the perpetrator that you are seeking to sue. They might ask about your relationship to that person, description and known information about them, and any third parties that might be involved. An attorney may also ask about damages that you might have sustained as a result or in the process of the criminal activity, including medical damages, property damages, emotional damages, lost wages, etc.

Who Can Answer Additional Questions?

The National Crime Victim Bar Association may be able to answer questions regarding the referral of an attorney. [VictimConnect Resource Center](#) is a resource to help victims learn about their rights and options that are available to them. [LawHelp](#) assists low- and moderate-income people in finding free legal aid programs that are local and can answer questions about legal rights. It also contains referrals to resources for each state and links to pro bono attorneys. A list of lawyer referral services can be found [here](#).

Support During and After the Trial

There are times where victims involved with the criminal justice system have an agonizing experience. It is often difficult for the crime victim to understand and come to terms with the representation of the state, rather than them, when they were the ones who truly

suffered because of a crime. This loss of control may be a difficult concept to grasp and understand.

“Through experiencing struggles you gain Strength, with continued Strength you gain Resilience.”

Theresa Martinez, Survivor of DUI Homicide,
Member, Office of the Attorney General
2017–2018 Survivors Council

Additionally, the legal system is not a fast process. Undue delay may prolong the trauma and deny closure to a criminal victim or their families. Having to testify to events that initially brought such trauma can be a difficult feat for crime victims. Prosecutors and civil attorneys cannot always guarantee results in convictions or successful suits and

they cannot guarantee sentences or damages that may be expected. They can guarantee to try and seek justice and provide diligent representation of the State or of their client. In doing so, it can leave a crime victim or family member without closure. Even if a case is successful, everyone grieves and copes differently and they may not find the closure that they were looking for. There are various sources available to assist in this process. Your victim advocate or other victim service providers you have worked with may be able to provide these services. If not, they should be able to make referrals for needed services.

Trauma and Healing in the Long Term

Surviving and healing from crime can be a lifelong journey. Some survivors have found healing in gathering with other survivors, seeking changes in legislation, speaking about their experience, using art to express their experience, and seeking ways to cope with trauma when it surfaces. The Office of the Attorney General is committed to assist survivors and their families to find support and resources. You are not alone.

“Having looked the past in the eye, I’ve rewritten my narrative with redemptive strands. I’ll never forget what was done to my family and me. But it doesn’t define me. With God’s help, I’m not shamed by my trauma; instead I’m honored to be a survivor.”

Rev. Dr. Beverly Weinholt, Survivor of Child Abuse and Clergy Abuse,
Member, Office of the Attorney General 2017–2018 Survivors Council

TAKE AWAYS:

- After a defendant is convicted at a trial, he or she will have a right to appeal. A defendant who pleads guilty waives his or her right to appeal.
- When a convicted defendant goes before the parole board, the victim will have a right to provide a victim impact statement to the parole board.
- As a victim of a crime, you may want to contact a private attorney to determine if there is a civil cause of action available to you.

Services and Programs Available Through the Attorney General's Office

Kentucky Attorney General's Office of Victim Advocacy

1024 Capital Center Drive, Ste. 200

Frankfort, KY 40601

502-696-5312

Toll-free: 800-372-2551

<https://ag.ky.gov/justice-for-victims>

The Office of Victims Advocacy has victim advocates on staff who can answer general questions about the criminal justice process, crime victim rights, and provide referrals to victim resources and services in the caller's local area. Our advocates also provide notification of court proceedings, accompaniment to court proceedings and attorney interviews, assistance filing for victim compensation and restitution, referrals to community resources, guidance with victim impact statements, etc. in cases prosecuted by the Office of the Attorney General. Our crime victim information line is (502) 696-5312. Additional information is available [here](#).

Kentucky Attorney General's Survivors Council

In January 2017, the Survivors Council was created to advise and assist the Office of the Attorney General on matters related to victims of crime, including but not limited to awareness initiatives; training efforts; and publications, policy and legislative initiatives. Its purpose is to ensure that these efforts are victim-centered, effective and responsive to the needs of diverse victims. Additional information about the membership and work of the Council can be found [here](#).

Kentucky Attorney General's Office of Child Abuse and Human Trafficking Prevention and Prosecution

1024 Capital Center Drive, Ste. 200

Frankfort, KY 40601

502-696-5314

<https://ag.ky.gov/about/branches/OCAHTPP/>

The Office of Child Abuse and Human Trafficking Prevention and Prosecution was developed by Attorney General Andy Beshear in January of 2016. The office's mission is to prevent and protect Kentucky's children from becoming victims of abuse and sexual exploitation and to raise awareness of the prevalence of human trafficking across the state.

The office provides critical resources, including child abuse prevention trainings, prosecution assistance to law enforcement, policy development and constituent services for any questions related to child sexual abuse or human trafficking prevention and prosecution.

Kentucky Attorney General's Office of Consumer Protection

1024 Capital Center Drive, Ste. 200

Frankfort, KY 40601

502-696-5389

Toll-free: 888-432-9257

<https://ag.ky.gov/safeguarding-kentuckians/consumer-protection>

The Kentucky Consumer Protection Act protects Kentucky from “unfair, false, misleading or deceptive acts or practice in trade or commerce.” The Attorney General’s Office of Consumer Protection enforces the Act by bringing lawsuits in the public interest to obtain consumer redress and civil penalties in a range of matters including but not limited to automobile sales, telemarketing sales including the Do-Not- Call list, business opportunities, charitable solicitations, debt collection, truth in lending, privacy, recreation and retirement land sales, internet sales, pharmaceutical drugs and for-profit schools. The Office also conducts educational programs to teach consumers, seniors and schoolchildren about their consumer rights, how to avoid being victimized by scam artists and how to be better consumers.

Kentucky Attorney General's Office of Senior Protection

1024 Capital Center Drive, Ste. 200

Frankfort, KY 40601

502-696-5300

<https://ag.ky.gov/about/branches/OSPM/>

The Office of Senior protection was established as a part of Attorney General Beshear’s mission to protect senior Kentuckians. The office is responsible for administering and offering a “triage” of services and training, to equip senior Kentuckians and collaborating senior stakeholders in protecting seniors against fraud, scams and financial exploitation.

State and Federal Services Directory

Kentucky Association of Sexual Assault Programs

83-C Michael Davenport Boulevard

Frankfort, KY 40604

502-226-2704

Toll-free: 866-375-2727

<https://www.kasap.org/>

Kentucky Coalition Against Domestic Violence

111 Darby Shire Circle

Frankfort, KY 40601

502-209-5382

<https://kcadv.org/>

Cabinet for Health and Family Services Ombudsman

502-564-5497

Toll-free: 800-372-2973

Report Child Abuse: 877-597-2331

Report Elder Abuse: 800-752-6200

<https://chfs.ky.gov/>

Kentucky Association of Children's Advocacy Centers

200 West Vine Street, 6th Floor

Lexington, Kentucky 40507

859-699-1191

<http://www.kacac.org/>

Bakhita Empowerment Initiative (Human Trafficking)

2911 S 4th St.

Louisville, Kentucky 40208

502-974-4947

National Tipline: 888-373-7888

<https://www.facebook.com/BakhitaEmpowermentInitiative/>

Kentucky MADD

502-871-4210

877-MADD-HELP

<https://www.madd.org/kentucky/>

Prevent Child Abuse Kentucky
801 Corporate Drive, Suite 120
Lexington, KY 40503
859-225-8879
Toll-free: 800-244-5373
<http://www.pcaky.org/>

Kentucky Department of Corrections Victim Services Branch
502-564-5061
Toll Free: 877-OVS-6818
Kentucky VINE Services: 800-511-1670
<https://corrections.ky.gov/Victim-Services/>

Kentucky Claims Commission
130 Brighton Park Blvd.
Frankfort, KY 40601
502-573-7986
<http://cvcb.ky.gov/>

Hope After Homicide
<https://www.hopeafterhomicide.org/>
hopeafterhomicide@gmail.com

Kentucky Department of Juvenile Justice
502-573-2044
<http://djj.ky.gov/>

Kentucky Protection and Advocacy
502-564-2967
Toll Free: 800-372-2988
<http://www.kypa.net/>

Kentucky Department for Behavioral Health, Developmental
and Intellectual Disabilities
502-564-4527
Toll Free: (800) 374-9146
<http://dbhdid.ky.gov/kdbhdid/>

Office of United States Attorney, Western District of Kentucky
Louisville Main Office:
(502) 582-5911
Paducah Branch Office:
(270) 442-7104
<https://www.justice.gov/usao-wdky>

Office of the United States Attorney, Eastern District of Kentucky

Lexington Main:

(859) 233-2661

Ft. Mitchell Main:

(859) 655-3200

London Main:

(606) 864-5523

<https://www.justice.gov/usao-edky/>

Office for Victims of Crime

810 Seventh Street NW., Second Floor

Washington, DC 20531

Phone: 202-307-5983

<https://www.ovc.gov/>

Glossary of Commonly Used Terms

This glossary defines some commonly used terms to ensure that you understand the language that is being used within the criminal justice system.

Abuse – cruel or violent treatment of someone; specifically physical or mental maltreatment, often resulting in mental, emotional, sexual, or physical injury.

Accused – formally charged but not yet tried for committing a crime.

Acquittal – a judgment of a court, based on the decision of either a jury or a judge, which he/she has been tried.

Affidavit – a written statement made under oath.

Appeal – a request by either the defense or the prosecution that a higher court review the decision or sentence of the trial court.

Arraignment – the first appearance in court of an accused person during which the court may inform the accused of the charges against him/her, advise the accused of his/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/her with committing a specific crime.

Assault – an illegal physical attack by one person against another.

Bail/Bond – security, usually in the form of money or property, exchanged for the release of a jailed person to insure his/her appearance in court.

Bailiff – an officer from the Sheriff's department who maintains courtroom order and jury custody.

Bar Association – a collective body of attorneys qualified to practice law in a particular jurisdiction, such as Kentucky Bar Association.

Bifurcation – to separate into two parts; multiple aspects of litigation may be bifurcated to save time, reduce jury confusion, or achieve other benefits, with or without the same jury hearing both bifurcated parts.

Commonwealth's Attorney – see *prosecutor*.

Conditional Discharge – a disposition in criminal cases where the defendant must satisfy certain court-ordered conditions.

Conviction – a judgment of the court based either on the decision of a jury or a judge or on the guilty plea of the accused that the accused is guilty of a crime.

Continuance – the postponement of a court case to another date.

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.

Cross Examination – the questioning of a witness or party during trial, hearing, or deposition by the party opposing the one who asked the person to testify in order to evaluate the truth of that person’s testimony, to develop the testimony further, or to accomplish any other objective.

Defendant – a person who has been formally charged with committing a crime.

Defense Attorney – the attorney who represents the defendant in a legal proceeding.

Dependency Hearing – a legal proceeding under law for the purpose of ensuring the safety and welfare of juveniles who may be neglected or abused.

Direct Examination – the primary questioning of a witness during a trial that is conducted by the side for which that person is acting as a witness.

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.

Docket – a list of cases scheduled to be heard in court on a specific date.

Domestic Violence/Abuse – physical injury, sexual abuse, assault, or the infliction of fear of physical injury, sexual abuse, or assault between family members or members of an unmarried couple.

Domestic Violence Order – a civil order issued by a Family Court Judge that requires the perpetrator to refrain from committing further acts of violence against the victim. Any violation of this order should be reported to the court, shall constitute contempt of court, and may result in a criminal charge.

Emergency Protection Order – an *ex parte* temporary order issued by Family Court prior to a hearing for and following the filing of a domestic violence petition.

Ex Parte – done for, or at the request of, one side in a case only, without prior notice to the other side.

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

Grand Jury – a group of twelve citizens chosen at random who decide whether to indict or dismiss the charges against the defendant. If the crime is indicted, meaning formally charged, the case moves on.

Guardian Ad Litem – a person appointed by the court to represent a minor child's best interests.

Guilty Plea – a formal response by a person accused of committing a specific crime in which the accused says the charges are true and that he/she did commit the crime.

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

Hung Jury – a jury that is unable to reach a verdict of guilty or not guilty; this results in a mistrial.

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

Interpersonal Protective Order – a civil court order that provides protection from an abuser if a person is the victim of dating violence and abuse; or sexual assault or stalking by someone whom the victim may or may not have dated.

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 at random 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 jail.

Neglect – the failure to give proper attention, supervision, or necessities, especially to a child, to such an extent that harm results or is likely to result.

Not Guilty – a verdict by a judge or 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.

Not Guilty Plea – a formal response by a person accused of committing a specific crime in which the accused says that the charges are not true and he/she did not commit the crime.

No True Bill – a finding by the Grand Jury that there was not enough information or evidence to find that an accused should be formally charged with committing a crime.

Offender – an adult who has been convicted of a crime.

Oath – a written or oral pledge to keep a promise to speak the truth.

Objection – a statement by an attorney opposing specific testimony or admission of evidence.

Order to Show Cause – a court order in which a perpetrator is ordered to appear before the court to explain why he/she should not be arrested or prosecuted for the failure to abide by the terms of a domestic violence or interpersonal protective order.

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.

Perjury – the act of a witness providing false or misleading testimony in a court against another person or group.

Petition to Amend – a document that a victim must file in the District Clerk's office in the event that he/she wishes to change the terms of a domestic violence order in the time in which it is in effect.

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.

Presentence Investigation – also called a PSI. A background investigation conducted by a probation officer on a person who has been convicted of a criminal offense.

Pretrial – a conference with the prosecutor and the defense attorney, and sometimes the judge, to discuss the case status and what will happen next.

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

Probable Cause – a reasonable belief that a crime has been or is being committed; the basis for all lawful searches.

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/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.

Sentence – the legal process in which a defendant, who has been found guilty of a crime, hears in court his/her punishment (confinement or probation) will be.

Statute – a law enacted by the legislative body.

Statute of Limitations – a certain time allotted by law for starting a case.

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.

Substantiate – to establish the existence of truth of (a fact, etc.), especially by competent evidence; to verify.

Sustain – the Court’s acceptance of any motion or objection.

Time Served – a sentence of incarceration equal to the amount of time a defendant has already spent in custody.

Venue – the locality where a crime was committed. Under a “change of venue,” the locality in which a trial is to be held can be switched to another location if it is believed that a fair trial cannot be had in the locality where the crime was committed.

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/she has been tried.

Victim Advocate – a person who addresses a victims’ needs and helps them understand the court system, how to exercise their rights and how to access other resources.

Victim Impact Statement – written statement by a victim to tell the court the effect that a crime has had on them, their families, and loved ones. It may be used to help a judge or parole board understand how the crime has impacted a victim.

Voir Dire Examination – the preliminary questioning of jurors to establish their qualifications.

Witness – a person who has directly seen an event, such as a crime, or has knowledge that is related to a court case.

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Office of Victims Advocacy
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ag.ky.gov/victims

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