

Franklin County State's Attorney Victim Services

FREQUENTLY ASKED QUESTIONS

What type of services and information can I get through Victim Services Program?

A Victim Advocate will be assigned to assist all "violent" crime victims throughout the court process from the initial first advisement hearing through the sentencing phase. Services offered are: case notification, counseling referrals, outside agency referrals, victim impact statement preparation, restitution information, crime compensation information, court advocacy and orientation, assistance with employers, court scheduling, trial preparation, order of protection information, how to follow up on the Automated Victim Notification system, arrange meetings with prosecutor, and explanation in layman terms terminology, an overview of the sequence of court dates through the prosecution, and also how to follow up with defendants sentenced to the Department of Corrections.

If I am the victim in a criminal case, do I need to hire an attorney?

No. It is the State of Illinois vs the Defendant. The Franklin County State's Attorneys (prosecutors) are the prosecuting attorneys and represents the citizens (victims) of Franklin County in criminal cases. The defendant (offender or person charged with the crime) will have a defense attorney to represent him/her, except on rare occasions when they represent themselves.

Can I drop charges against the defendant/offender?

No. It is the State of Illinois vs. the defendant in criminal cases. The prosecutor takes in serious consideration what the victim would like to see happen in the criminal case, however the prosecutor is obligated to protect society from further criminal actions of an offender and has the final decision whether a case proceeds or not. If it is your desire to request that the State's Attorney dismiss or drop charges against a defendant, you have the right to fill out an Affidavit to Dismiss. You must come into the office to fill out this form. Just because you request the charges be dropped/dismissed, does not mean that they will be.

Are crime victim(s) or witnesses required to go to all court dates?

No. Victims and lay witnesses will be notified by subpoena to testify if the case goes to trial or contacted if there is a hearing requiring their presence. It is very important that you notify the State's Attorney Office of any changes in address or phone numbers from the time of the original police report.

Can victims attend court dates?

Yes. Courtrooms are open to the public with the exception of Juvenile court. Victims are welcome to attend court proceedings, however their presence is not required at all court dates. Victims will be subpoenaed or notified if their testimony is needed. Since victim presence is not required on all court dates, it is suggested for victims to call the working day before attending court and check to see if the case is still scheduled. Call the State's Attorney's office at (618) 439-4316. Please have the name of the defendant and case number available.

How do I find out the next court date?

Contact the Franklin County State's Attorney's office (618) 439-4316 and request to speak to the victim advocate. It is helpful to have the defendant's name and case number when you call. You may also find defendant court information by accessing Franklin County at www.judici.com.

Will a Victim Advocate be assigned to every case?

If you are a victim of a "violent" crime, an advocate will be assigned to the case to help assist you through out the prosecution. You will be contacted through mail and/or a phone call. It is extremely important to stay in contact with your assigned advocate for regular updates on the court dates, times, and to give victim input on the case. The advocate may be able to assist you in court and keep you correctly informed about the criminal justice process. It is your responsibility to update any changes in your address or phone numbers with the State's Attorney office until the case is resolved.

If you are a victim of a non-violent crime, not all non-violent crime cases are assigned a counselor. However the State's Attorney office values all crime victim input and your opinion matters. If you are

a victim and have not received a form letter or call from our office, you can contact our office at (618) 439-4316 and ask to speak to an advocate. To better assist you, please call with as much information as possible; name of defendant and case number.

How can an offender plea not guilty if he/she made a statement to the police or there are witnesses to the crime?

Our constitution was written to protect the innocent that may be accused of a crime. Although an offender may have witnesses against them or made a statement to the police, they still have a right to a fair trial. At trial the State of Illinois is required to show the evidence and testimony proving beyond a reasonable doubt the defendant's guilt. All offenders accused of a criminal act irregardless of the number of witnesses are viewed innocent by the criminal court until they either plead guilty in court or are proven guilty by trial.

Who decides if the defendant pleads guilty or request a trial?

The decision is the defendants to make. He/she has the right to go to trial. If the defendant chooses to go to trial it is the defendant's choice whether it is a trial by jury (12 people) or a bench trial (judge-no jury).

Will I have to testify in court?

Maybe. Your testimony would be required during a trial, or possibly at a special hearing date.

However, only a small percentage of criminal cases actually go to trial. The majority of defendants eventually admit guilt in criminal cases by entering either a negotiated plea (agreed upon sentence by prosecutor and defense to be presented to the judge); or the defendant pleads guilty and request a sentence to be determined by the judge. If the defendant maintains innocence in court and requests the State prove criminal charges at trial, then victims and witnesses are subpoenaed to testify in court. If the defendant pleads the victim of violent crime may want to present a victim impact statement at the time of plea, or sentencing hearing. Restitution hearings also are sometimes necessary to determine the amount of out of pocket medical or damages caused by the defendant to the victim.

What do I do if I receive a subpoena to testify?

To determine whether your testimony will be needed, you should call the Franklin County State's Attorney office at (618) 439-4316 and speak to advocate assigned to the case. Have the subpoena with you when you make the call as it will have the defendant's name, case number, courtroom, etc. If you are needed to testify the State's Attorney office will work with you as much as possible to keep your time away from work, school, and other obligation to a minimum. If you receive a subpoena and do not make direct contact with the advocate you must appear on the date and time as the court ordered subpoena commands.

How long will I be in court?

Your actual testimony in court may not take long, but your wait before testifying depends upon many factors. You may want to bring a book to read while you wait. We will do our best to minimize your time however there may be several circumstances beyond our control. You should plan on at least a ½ day .

Can a friend or relative be in court when I testify?

Yes, as long as they are not witness or have been subpoenaed to testify in the case. There is normally an exclusion of witnesses listening to other witness testimony. You would not be allowed to sit inside the courtroom after testifying until both sides have finished witness testimony. If you are going to bring someone in support, it is suggested that you introduce them to the advocate on the case.

Will the defendant be in the courtroom when I testify?

Yes. The defendant is the accused and has the right to hear testimony and evidence brought against him/her. In most cases the defendant is represented by a defense attorney who will be able to ask victims or witnesses questions on behalf of the defendant at trial. The prosecutor and advocate will meet with you in advance of trial to answer any questions or concerns you may have before testifying.

Does the victim of crime have input on the criminal case?

Yes. The State's Attorney's office takes very seriously what the victim would like to see happen within realistic and legal boundaries or penalties allowed under the law. However each case is unique and has its own set of facts/evidence to consider. Prosecutors not only listen to victim input they must also factor in several things before determining a plea offer. Such as: violent or non violent offense; the weaknesses and strengths of the evidence; potential witness testimony or cooperation; probability of proving the case beyond a reasonable doubt at trial; restitution; victim injuries; whether the defendant has a criminal history; defendant's age; what the judge must consider at sentencing, etc. Although victim input is important, the final decision rests with the prosecutor after weighing in all factors how to proceed on a case. If you are a violent crime victim and have not been contacted please call the Franklin County State's Attorney's Office at (618) 439-43169 with the offenders name and ask to speak to an advocate.

What is a victim impact statement?

Victims of "violent" crime have the right to prepare a victim impact statement (VIS) and present it to the office of the State's Attorney at any time during the proceedings. The VIS is the victim's opportunity to tell the court prior to sentencing the defendant about the emotional, physical, and financial impact the crime has had upon the victim and victim's family. The VIS must be completed in writing in conjunction with the State's Attorney's office prior to the change of plea hearing or sentencing hearing, before it can be presented orally or in writing to the court. The victim advocate assigned to your case will work with you on how and when to complete a VIS. Any written VIS submitted to the office of the Franklin County State's Attorney, and the victim is present in court, shall be considered by the court during its consideration of aggravation and mitigation in plea proceedings under Supreme Court Rule 402 or sentencing hearing.

Who can present a victim impact statement (VIS) in court?

If you are a victim of a "violent" crime you have a right to present a victim impact statement at the court date when the defendant pleads guilty to a plea agreement, or at the sentencing hearing date. It must be done in writing in conjunction with the Franklin County State's Attorney office before being presented in court. The victim advocate assigned to the case can assist and provide victims

guidance for completing a VIS. Below explains fully the rights of "violent" crime victims to present a victim impact statement.

In any case where a defendant has been convicted of a violent crime or a juvenile has been adjudicated a delinquent for a violent crime and a victim of the violent crime or the victim's spouse, guardian, parent, grandparent, or other immediate family or household member is present in the court at the time of the sentencing or the disposition hearing, the victim or his or her representative shall have the right and the victim's spouse, guardian, parent, grandparent, and other immediate family or household member upon his, her, or their request may be permitted by the court to address the court regarding the impact that the defendant's criminal conduct or the juvenile's delinquent conduct has had upon them and the victim. The court has "discretion" to determine the number of oral presentations of victim impact statements. Any impact statement "must" have been prepared in writing in conjunction with the Office of the State's Attorney prior to the initial hearing or sentencing, before it can be presented orally or in writing at the sentencing hearing.

In conjunction with the Office of the State's Attorney, a victim impact statement that is presented orally may be done so by the victim or the victim's spouse, guardian, parent, grandparent, or immediate family or household member or his, her or their representative. At the sentencing hearing, the prosecution may introduce that evidence either in its case in chief or in rebuttal. The court shall consider any impact statement admitted along with all other appropriate factors in determining the sentence of the defendant or disposition of such juvenile.

In any case where a defendant has been convicted of a violation of any statute, ordinance, or regulation relating the operation or use of motor vehicles, the use of streets and highways by pedestrians or the operation of any other wheeled or tracked vehicle, except parking violations, if the violation resulted in great bodily harm or death, the person who suffered great bodily harm, the injured person's representative or the representative of a deceased person shall be entitled to notice of the sentencing hearing. "Representative" includes the spouse, guardian, grandparent, or other immediate family or household member of an injured or deceased person. If the injured person, the injured person's representative or a representative of a deceased person is present in the courtroom at the time of sentencing, the injured person or his or her representative and a representative of the deceased person shall have the right to address the court regarding the impact that the defendant's criminal conduct has had upon them. If more than one representative of an injured or deceased person is present in the courtroom at the time of sentencing, the court has discretion to permit one

or more of the representatives to present an oral impact statement. Any impact statement must have been prepared in writing in conjunction with the Office of the State's Attorney prior to the initial hearing or sentencing, before it can be presented orally or in writing at the sentencing hearing. In conjunction with the Office of the State's Attorney, an impact statement that is presented orally may be done so by the injured person or the representative of an injured or deceased person. At the sentencing hearing, the prosecution may introduce that evidence either in its case in chief or in rebuttal.

When should a violent crime victim prepare or write a victim impact statement (VIS)?

A VIS can be prepared in writing and given to the Franklin County State's Attorneys office at anytime during the pending criminal case prior to sentencing. If the defendant pleads to a negotiated offer the VIS must be prepared in writing and the victim present before it can be presented at the plea in court. A victim may update their VIS any time prior to sentencing. However, if the defendant is found not guilty after a trial their VIS would not be presented in court. Contact your victim advocate assigned to your case for assistance.

When does the victim present the victim impact statement (VIS) in court?

The VIS is presented at any hearing where the judge imposes sentence on the defendant. The hearing may be called a "sentencing hearing" or it may be called a "change of plea" (the defendant will plead guilty and sentenced at same court proceeding.) A victim has the right to make a VIS even if the prosecutor and the defense has an agreed upon sentence (negotiated plea agreement) As a result a victim may choose to prepare a VIS in the early stages of the pending case for two reasons. The prosecutor will consider the VIS before plea offers to the defense, and if the defendant pleads to a negotiated agreement the VIS must be prepared in writing before it can be presented during the plea in court. The victim must also be present. A victim may revise the VIS any time prior to sentencing. If the case goes to trial and the defendant is found not guilty , the VIS would not be presented in court. Contact the victim counselor assigned to your case for assistance

How many victim impact statements can be presented in court?

In any case where a defendant has been convicted of a "violent" crime and a victim of the violent crime or the victim's spouse, guardian, parent, grandparent, or other immediate family or household member is present in the courtroom at the time of the sentencing or the disposition hearing, the victim or is or her representative shall have the right AND the victim's spouse, guardian, parent, grandparent, and other immediate family or household member upon his, her, or their request may be permitted by the court to address the court regarding the impact that the defendant's criminal conduct has had upon them and the victim. All statements MUST be done in writing in conjunction with the State's Attorney office. The court has discretion to determine the number of oral presentations of victim impact statements. Contact the victim advocate assigned to your case for assistance.

Is a violent crime victim required to complete a victim impact statement?

No, it is not required. It is strictly a personal choice of the victim. It is an opportunity for the victim to have a voice and address the court about the emotional, physical, and financial impact the crime has had upon the life prior to the court sentencing the offender. You may want to speak to the victim advocate assigned about whether or not completing a VIS feels right to you.

Can I write and present a victim impact statement for a non-violent crime in court?

Formal victim impact statements presented in court are on "violent" crime cases. However the State's Attorney office takes ALL victims of crime very seriously. Your input is valued and will be taken into consideration along with other factors by the prosecutor before plea agreements or sentence hearings. The prosecutor may need a victim to testify at the sentencing regarding restitution. Non-violent crime victims may also receive a form letter requesting input regarding restitution information and asking the impact the crime has had upon them prior to a court date or disposition of a case. Non-violent crime victims may also contact our office and ask to speak to an advocate who can assist you with questions. If there are out of pocket damages or theft (not covered by insurance) please supply the prosecutor with documentation and receipts before the case is resolved.

Is there money to help cover medical expenses as a result of violent crime committed against me?

If you are an uninsured violent crime victim who was hospitalized first check with the hospital to apply under the Illinois Hospital Uninsured Patient Discount Act. (IHUPDA) This requires hospitals to give discounted care to eligible uninsured Illinois residents. Victims of violent crime may also apply to the Attorney General's Crime Victim's Compensation Program. Applications can be retrieved on line at: www.illinoisattorneygeneral.gov or calling 1-800-228-3368 (TTY: 1-877-398-1130).

In other cases, all documentation of bills should be forwarded to the victim advocate assigned to your case as soon as possible. If the defendant pleads or is sentenced he/she could be ordered to pay restitution as part of the sentence. Restitution will also be ordered in criminal court cases where ever practical and possible.

Is there money to help violent crime victims and families of homicide with medical, counseling, and burial expenses?

Yes. If you are an uninsured violent crime victim who was hospitalized first check with the hospital to apply under the Illinois Hospital Uninsured Patient Discount Act. (IHUPDA) This requires hospitals to give discounted care to eligible uninsured Illinois residents.

If you have further out of pocket medical or expenses as a result of the violent crime or you are a family member of a murder victim, you can file an application with the Crime Victims Compensation Program through the Illinois Attorney General's office. Applications can be retrieved on line at www.illinoisattorneygeneral.gov or calling 1-800-228-3368 (TTY: 1-877-398-1130). The victim counselor of the Lake County State's Attorney can also assist you with the application forms. Make copies of everything you send to the AG office. They will respond with a letter within a couple of weeks that they are processing your application. The process can take from 4 months to a year to complete.

What is the Attorney General's Crime Victim Compensation Program and who is eligible?

The Crime Victim Compensation Program is through the Illinois Attorney General office for victims of "violent" crime that occurred in the State of Illinois or are an Illinois resident that was victimized in another state or country that does not have a Crime Victim Compensation Program. They provide direct financial assistance to innocent victims of "violent" crime to reimburse out of pocket expenses related to the crime. They will assist "violent" crime victims and families of homicide that do not have any other means to cover medical, burial, counseling, support, etc.

Go to the Attorney General website: www.illinoisattorneygeneral.gov and click on crime victims or call the crime victims services toll free 1-800-228-3368. You may also contact your victim advocate in the State's Attorney's office. The advocate can assist you with questions and help with the application process. Compensation is not guaranteed, applicants must meet the criteria listed for violent crime victims to apply.