

Crime Victim Information Manual

Navajo County Victim Services



Don't be afraid
to reach out.



County Attorney's Office
P.O. Box 668
Holbrook, AZ 86025-0668
(928) 524-4026



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Dear Victim:

The Navajo County Victim's Services is here to help. We are sorry for the emotional trauma, financial loss and other burdens that are associated with being a victim crime. We are here for you, to help guide and advocate for your rights in the criminal justice system.

Historically, the criminal justice systems focus is to instill consequence for criminal and delinquent behavior, providing little support or relief for those effected by crime. The system is making advances and changes toward becoming more "victim friendly." The system itself can be complicated for a victim to navigate due to a variety of factors. It is our mission to help walk victims' through this court process and allow them to contribute with an effort to provide them restorative justice.

These issues along with the problems crime victims must deal with and your constitutional rights as a victim have inspired us to prepare the information in this document. This document is a tool to help guide you on your journey through the criminal justice system. It is meant to keep you informed of your rights and of whom to contact regarding questions or needed assistance.

Although, there is an Adult Criminal Justice System and a Juvenile Justice System, your rights do not change – they are the same whether the defendant is an adult or a juvenile delinquent.

We understand that you will probably not sit down and read this from cover to cover. We expect for you to use it as a valuable resource.

If you have any questions, please feel free to contact the Navajo County Victim Services Department at (928) 524-4026; victimservice@navajocountyaz.gov.

NOTE: IN ORDER TO ENSURE YOU RECEIVE NOTIFICATION AS QUICKLY AS POSSIBLE WE WOULD APPRECIATE YOU PROVIDING YOUR EMAIL ADDRESS, MAILING ADDRESS, AND GOOD CONTACT PHONE NUMBER TO OUR OFFICE. WE WILL NOTIFY YOU OF ALL PROCEEDINGS IN THE CASE.

YOU CAN PROVIDE YOUR E-MAIL ADDRESS TO US CONTACTING OUR OFFICE THROUGH REGULAR MAIL DELIVERY, PHONE OR E-MAIL LISTED BELOW:

Navajo County Victim Services

PO Box 668

Holbrook, AZ 86025

Phone: (928) 524-4367

Fax: (928) 524-4244

Email: VictimService@navajocountyaz.gov

The only other agency that will receive your contact information – your name, mailing address, phone number and e-mail address (if you have one) will be the Navajo County Probation Department once the defendant is convicted. The purpose of sharing this information with the probation department is so that they can contact you and have your input into a report that the Judge has ordered them to prepare for him/her prior to the sentencing date.

VICTIMS' RIGHTS DEFINITIONS

In order for you to participate in the criminal justice system as a victim of crime, you must be able to understand your rights. This section contains definitions that you will need to understand to make your journey easier to understand. In this section you will find two separate statute numbers. Statutes beginning with "13" refer to the Adult Criminal Justice System. Statutes beginning with "8" refer to the Juvenile Justice System.

First, you must understand who, under the statute, is considered a victim.

A.R.S. 13-4401.19:

"Victim" means a person against whom the criminal offense has been committed, including a minor, or if the person is killed or incapacitated, the person's spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or any other lawful representative of the person, except if the person or the person's spouse, parent, child, grandparent, sibling, other person related to the person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused.

In other words a victim, according to the law, is a person regardless of age, who has had a criminal offense committed against them. If the person who had the act committed against them is killed or incapacitated, the person's spouse, parent, child, grandparent, sibling or any other lawful representative of the person is a victim. Unless, that person is in custody for an offense or is the accused person for committing the crime.

A.R.S. 8-382.20:

"Victim" means a person against whom the delinquent act has been committed, including a minor, or if the person is killed or incapacitated, the person's spouse, parent, child, grandparent or sibling, any other person related to the person by consanguinity or affinity to the second degree or any other lawful representative of the person, except if the person or the person's spouse, parent, child, grandparent, sibling, other person related to the person by consanguinity or affinity to the second degree or other lawful representative is in custody for an offense or is the accused.

In other words a victim, according to the law, is a person regardless of age, who has had a delinquent act committed against them. If the person who had the act committed against them is killed or incapacitated, the person's spouse, parent, child, grandparent, sibling or any other lawful representative of the person is a victim. Unless, that person is in custody for an offense or is the accused person for committing the crime.

Following are some additional definitions included in the Victims' Bill of Rights that may be beneficial to you.

A.R.S. 13-4401.6:

“Criminal offense” means conduct that gives a peace officer or prosecutor probable cause to believe that one of the following has occurred:

- (a) A felony.
- (b) A misdemeanor involving physical injury, the threat of physical injury or a sexual offense.

A.R.S. 8-382.9:

“Delinquent act” means an act to which this article applies pursuant to section 8-381. (This is defined below)

A.R.S. 8-381. Applicability:

This article applies to acts that are committed by a juvenile and that if committed by an adult would be either:

- (a) A misdemeanor offense involving physical injury, the threat of physical injury or a sexual offense.
- (b) A felony offense.

A.R.S. 13-4401.11 and A.R.S. 8-382.12:

“Immediate family” means a victim’s spouse, parent, child, sibling, grandparent or lawful guardian.

A.R.S. 13-4401.12 and A.R.S. 8-382.14:

“Lawful representative” means a person who is designated by the victim or appointed by the court and who will act in the best interests of the victim.

If you have designated a lawful representative, you must inform the Navajo County Attorney’s Office of the lawful representative’s name, mailing address and phone number. Notifications concerning the prosecution of the case will be sent directly to your lawful representative. If you change your lawful representative or wish notifications be sent directly to you, you must provide written notification to the Mohave County Attorney’s Victim/Witness Program.)

LEGAL ENTITIES:

As defined in **A.R.S. 13-4404** as: A corporation, partnership, association or other legal entity which, except for its status as an artificial entity, would be included in the definition of a victim in Section 13-4401.

Legal entities have limited rights under the Victims' Bill of Rights. A legal entity has the right to request notice from the prosecutor of any hearing related to sentencing and/or restitution.

Children Who Are Victims:

If the victim is a child, the Navajo County Attorney's Office will consider the child's parent(s) the lawful representative, (*if* the parent(s) are not the accused) until the child victim turns 18 years old.

Incapacitated or Deceased Victims:

If the victim is incapacitated or deceased, the Navajo County Attorney's Office will provide initial notification to the immediate family member as provided by the law enforcement agency investigating the crime. The spouse, parent or child (according to the laws of succession) shall be afforded all the rights of the victim.

If you, as the victim or lawful representative of the victim, have hired an attorney to help you exercise your rights, the Navajo County Attorney's Office will provide notice to your attorney, unless your attorney permits our office to speak to you and send notices to you. You should inform your attorney if you would prefer to receive notices and other information from the Navajo County Attorney's Office.

Free Copies of Police Reports for Crime Victims:

Victims (or an immediate family member of the victim if the victim is killed or incapacitated) of criminal offenses or juvenile delinquent acts, have a right to receive one (1) copy of the police report from the Navajo County Attorney's Office or Law Enforcement Agency at no charge.

Effect of Failure to Comply:

If you feel your rights have been violated, please contact the Navajo County Victim Services Department at (928) 524-4026 to report the violation and to be informed of your options.

PROSECUTOR'S OFFICE

VICTIMS' RIGHTS RESPONSIBILITIES

These rights pertain to victims of crimes committed by adults and delinquent acts committed by juveniles and are mandated under the Arizona Constitution, you do not have to opt-in to receive these rights.

Pre-trial Notice:

With seven (7) days after the prosecutor's office charges a criminal offense, the prosecutor's office shall give the victim notice of the following:

- ❖ The victims' bill of rights.
- ❖ The charge or charges against the defendant
The procedures a victim shall follow to invoke his right to confer with the prosecuting attorney.
- ❖ The person within the prosecutor's office to contact for more information.
- ❖ The right of the victim to confer with the prosecutor if the prosecutor decides not to proceed with prosecution.
- ❖ Receive notice concerning the scheduling of and/or the continuance of criminal proceedings (i.e. hearings scheduled in court)

Victims' Rights Throughout the Prosecution of the Criminal Case (upon request by the victim, to request the following rights, please contact the Navajo County Victim Services department. Contact information is available on page two of this pamphlet.

YOU HAVE THE RIGHT TO:

Be present throughout all criminal proceedings in which the defendant has a right to be present.

To confer with the prosecutor about the disposition of a criminal offense, including your views about a decision not to proceed with criminal prosecution, dismissal, plea or sentencing negotiations and pretrial diversion programs.

Refuse to be interviewed by the defendant, the defendant's attorney or an agent of the defendant.

The right to refuse to be interviewed by the defendant also applies to the parent or legal guardian of a minor child who exercises victims' rights on behalf of the minor child. The defendant, the defendant's attorney or an agent of the defendant shall only initiate contact with you through the prosecutor's office.

- ❖ If you consent to be interviewed by the defendant, the defendant's attorney or an agent of the defendant, you can choose the time and place for the interview. You have the right to terminate the interview at any time or refuse to answer any question during the interview.
- ❖ Under certain circumstances, the right to leave work to attend scheduled court proceedings in which you are a victim. (Contact the Navajo County Victim Services Department – 928-524-4026 – for clarification concerning the circumstances and assistance with your employer, if needed)
- ❖ To be present in court and provide a statement to the Judge at any hearing addressing the defendant's potential release from custody.
- ❖ Provide a written or oral impact statement to the probation officer for the officer's use in preparing the pre-sentence report to include the economic, physical and psychological impact that the criminal offense has had on you and your immediate family.
- ❖ If a criminal offense against you has been charged but the prosecutor, on the count(s) involving you, are being dismissed as a result of a plea agreement, you may, upon request, exercise all the rights of a crime victim throughout the criminal justice process as though the count(s) involving you had not been dismissed. This may or may not affect your ability to request restitution; contact the Victim Service Department if you have specific questions regarding restitution requests on dismissed charges.
- ❖ A copy of the pre-sentence/pre-disposition report prepared by the probation department as ordered by the court.
- ❖ Help assist with evidence, information and opinions that concern the criminal offense, the defendant, the sentence or the need for restitution at any aggravation, mitigation, pre-sentencing or sentencing proceeding.
- ❖ Before the imposition of sentence, the victim has the right to address the sentencing authority and present any information or opinions that concern the victim or the victim's family, including the impact of the crime on the victim, the harm caused by the crime, the criminal offense, the defendant, the need for restitution or the sentence to be imposed at every sentencing or disposition hearing.
- ❖ To receive notice of the disposition, acquittal or dismissal of the charges against the defendant.
- ❖ If the defendant is convicted and proceeding to sentencing, you shall be notified of:
 - The function of the presentence report
 - The name and telephone number of the probation department that is preparing the presentence report

- The right to make a victim impact statement
- The defendant's right to view the presentence report
- The victim's right to view the presentence report except those parts excised by the court or made confidential by law and, upon request, receive a copy from the prosecutor.
- The right to be present and be heard at any presentence or sentencing proceeding.
- The date, time and place of the sentencing proceeding.
- If the court orders restitution, the right to file a restitution lien.

Victims' Rights After Sentencing:

You have the right, within 15 days of the disposition to receive (from the prosecutor's office) notice of the sentence imposed on the defendant of the following:

- Notice of all post-conviction review and appellate proceedings. *If you wish to continue to be notified of these proceedings, you must fill out the form and send one (1) copy to each of the agencies designated. Also, it is your responsibility to mail the copy to the appropriate agency as the Navajo County Victim Services Department cannot take the responsibility for forwarding the information to the appropriate agency.*
- All post-conviction release proceedings.
- All probation modification proceedings that impact the victim.
- Any decision that arise out of these proceedings.
- All notices of release.

You, any member of your family or any member of your household, have the right **not** to receive mail from the defendant following the defendant's sentence to the Arizona Department of Correction. You can contact the Department of Corrections Victim Services to update this information at azvictims@azcorrections.gov.

Upon request (by filling out and returning the post-conviction request form), the court shall notify you of any probation revocation disposition proceeding or any proceeding in which the court is asked to terminate the probation or intensive probation of a person who is convicted of committing a criminal offense against you.

Upon request from you – the victim – and after consultation with the prosecuting attorney, the law enforcement agency responsible for investigating the criminal offense shall return to the victim any property belonging to the victim that was taken during the course of the investigation or shall inform the victim of the reasons why the property will not be returned.

If your property has been admitted as evidence during a trial or hearing, the court may order its release to you if a photograph can be substituted.

Responsibility of the Victim:

It is your responsibility, as the victim, to keep the Navajo County Attorney's Office informed of your current address, telephone number, and e-mail address. If the office is informed by the postal service that notifications mailed, to the address you have provided, are not deliverable it will be considered a waiver of your rights.

You may request or restore your rights at any time during the course of the prosecution by contacting the Navajo County Victim Services Department by mail, phone or e-mail:

Navajo County Victim Services Department

P O Box 668

Holbrook, AZ 86025

Phone: 928-524-4026

Fax: 928-524-4244

E-Mail Address: victimservice@navajocountyaz.gov

By law, a person has rights as a victim **AFTER** the arrest or formal charging of the person(s) responsible for the criminal offense. If the final determination of a criminal prosecution is by a dismissal with prejudice or acquittal, the victim is no longer entitled to such rights. If the defendant received a sentence of probation or prison, the victim has rights until the defendant has completed the imposed sentence.

THE ADULT CRIMINAL JUSTICE SYSTEM

As a victim of crime, you will have many questions about what to expect when you are involved in the criminal justice process. The following is a brief description of the process that must be following to prosecute a person accused of a crime.

The Crime:

When you are the victim of a crime, you should **immediately** call “911” or the law enforcement agency (Police Department, Sheriff’s Department or Department of Public Safety) that has responsibility for the area where the crime has occurred. The longer you wait to contact law enforcement, the harder it is to catch the criminal and obtain evidence necessary for prosecution.

The Initial Investigation:

In most cases, the initial investigation of a crime is conducted by a patrol officer. The patrol officer will interview the victim(s) and any witness(es) and begin an initial report listing the circumstances of the crime.

In addition, an officer may take photographs and collect evidence.

Identification technicians, who are specialists, may respond to the scene if there is a need to take special photographs of the crime scene or the victim, to record possible fingerprints, to collect physical evidence and make a composite drawing of any suspects.

The Follow-Up Investigation:

The patrol officer’s report is then reviewed by a sergeant or other ranking officer and the case **may** be assigned to a detective for complete follow-up investigation.

Detectives may contact witnesses for a formal statement, obtain further physical evidence and request further descriptions of suspects or stolen property. During the course of an investigation, pictures of offenders may be shown to victims and witnesses. These pictures may or may not include the photograph of the offender.

The Charging Process:

Once the report is complete and a suspect has been identified and/or arrested, the officer will send the report to the County Attorney’s Office. A Deputy County Attorney will review the report to determine what charge(s) can/will be filed.

If the Deputy County Attorney does not feel there is enough evidence to indict the alleged offender or there is not a reasonable likelihood of a conviction at trial, the prosecutor may decide not to file charges or may request that the officer conduct additional investigative work.

If the prosecutor believes the report provided enough evidence, the prosecutor will prepare and file a criminal complaint with the justice court having jurisdiction. Upon the filing of the complaint, the suspect, if not already in custody, will be arrested, have a warrant issued for his/her arrest by the Justice of the Peace or a summons will be issued for the suspect to appear in court on a specific date.

The Arrest:

When a suspect is arrested either at the scene of the crime or as a result of an arrest warrant, the suspect is taken to jail. Within 24 hours after the arrest, the defendant must be taken before a judge for an Initial Appearance. Many defendants are released at this time on their own recognizance (their personal promise to return to court when required).

Defendants are not required to post a money bail bond when released on their own recognizance because it is believed they have sufficient community ties to assure their appearance.

Defendants with serious records, those that have committed dangerous felonies, or those who have a history of not returning to court as required, are either held in jail or released after posting a bond. The bond amount set by the judge depends on many factors including the type of crime for which the person has been arrested, whether the defendant is considered a flight risk, and potential risk to the victim(s) and the community.

HOWEVER, THE COURT MUST PRESUME THE DEFENDANT IS INNOCENT AT THIS TIME.

Most defendants are released after the initial appearance but their travel is limited. Contact between the defendant and the victim(s) or witness(es) is also restricted.

It is against the law for anyone to harass or intimidate a witness. Any harassment should be reported to the police, the prosecutor or the County Attorney Victim/Witness Division as soon as possible. **REMEMBER: IF THE HARASSMENT IS NOT REPORTED, IT WILL PROBABLY NOT STOP.**

The Preliminary Hearing:

After felony charges are filed, a hearing is scheduled to determine whether there is enough evidence (probable cause) to justify holding the defendant for trial.

Probable cause is determined either by a Justice of the Peace at a preliminary hearing or by a Grand Jury.

A Grand Jury is a group of citizens (usually 9 to 16 people) selected at random. Both the victim(s) and witness(es) **may** be called to testify. However, law enforcement officers are the people that usually testify before the Grand Jury.

MOST CASES ARE TAKEN TO THE GRAND JURY; WHICH ELIMINATES THE NEED FOR A PRELIMINARY HEARING.

Sometimes, charges against the defendant are dismissed because the Justice of the Peace or the Grand Jury determines there is not enough evidence to justify a trial. If additional evidence comes to light at a later date, it is possible for the charges to be re-filed.

If probable cause is present, the case is forwarded to the Superior Court for further proceedings. This is accomplished by a felony indictment being issued as a result of the Grand Jury hearing.

Felony information is filed in the Superior Court by the County Attorney's Office before or after the preliminary hearing.

A PROBABLE CAUSE DETERMINATION IS NOT NECESSARY IF THE OFFENSE IS A MISDEMEANOR.

The Arraignment:

The first appearance of the defendant in Superior Court is called an Arraignment. The arraignment serves several purposes. This is the first time the defendant is told of exact charges brought against he/she. The defendant is also advised to have an attorney and advised that one will be provided at public expense if the defendant cannot afford an attorney. Also, at this first appearance, the defendant is asked to enter a plea to the charges.

A sentencing date is set if the defendant enters a plea of guilty at the arraignment. In the alternative, a case management conference is scheduled for a plea of not guilty.

If the defendant has a defense attorney, it is common that the defendant's attorney will advise their client to enter a not guilty plea to all charges. This will allow the attorney an opportunity to review the case and all the state's evidence.

In most cases the defendant pleads guilty at a later hearing by signing a plea agreement. If the defendant refuses to plead guilty the State then sets the case for trial.

If the charged offense is a misdemeanor, the case will not be heard in Superior Court. The defendant will be arraigned at a Justice Court and upon pleading guilty or being found guilty at a trial; the defendant will be sentenced by the Justice of the Peace.

Pretrial Actions:

After the arraignment and before a trial, there are many activities performed in preparation for trial. By Arizona Rules of Criminal Procedure, both the prosecution and defense must disclose information to the other party.

This process called **discovery**, includes providing the defense attorney with a copy of the police report and any other information including interviews with prospective witnesses. In Arizona, the defense has the right to interview all of the State's witnesses prior to trial or a plea agreement.

As the victim, you have the right to refuse to submit to a pre-trial interview, deposition or other discovery request by the defendant, the defendant's attorney or any other person acting on behalf of the defendant. **If anyone approaches you about the case, you should insist upon identification to verify they are representing either the prosecution or the defense.**

In addition to discovery, there may be several court hearings scheduled before trial such as the Case Management Conference, Status Conference, Evidentiary Hearing, Donald Hearing, and or a Settlement Conference. (please refer to the definition page for descriptions of these hearings), etc. At these hearings, motions may be heard from either the prosecution or the defense regarding the admissibility of evidence, pretrial release of the defendant and other matters of concern to the attorneys and/or the court.

Unless you are subpoenaed to appear for a hearing, you do not need to attend unless you wish to do so.

However, each hearing is designed to push the case to a prompt resolution. Other important decision affecting the case may be made. *If you want to be fully informed about the case, you should attend all hearings or as many as possible, or request an advocate be present on your behalf through the Navajo County Victim Services Department.* An advocate can also attend court with you if you wish to appear in person.

Rule 11 Examinations:

If the defense attorney believes a defendant may not be mentally competent to stand trial because the defendant cannot assist in the defense, the defense attorney may request the court to order a psychiatric evaluation (commonly called a "Rule 11 Examination") conducted by two (2) doctors appointed by the court. In some cases, the Rule 11 Examination process can take several months to complete in its entirety.

A hearing is then scheduled so the Judge can determine whether the defendant is competent and can stand trial. After hearing testimony and reviewing the report of the doctors, the Judge determines the competency of the defendant. If the defendant is judged to be competent, the case proceeds through the criminal justice process. If the defendant is found incompetent, the Judge orders a second evaluation to determine whether the defendant needs mental health treatment. The Judge may order the defendant to undergo mental health treatment to help restore the defendant's competency.

If the defendant is later deemed competent, the case proceeds through the criminal justice system. If the defendant is incompetent and is not expected to become competent in the near future, the Judge has two (2) options. Under certain circumstances, the Judge may order the defendant

involuntarily committed to the Arizona State Hospital for mental health treatment. If the defendant is not civilly committed, the Judge may dismiss the charges and order the defendant released from custody. Even when determined to be competent, the defendant may raise an insanity defense at trial.

Victim Impact Statement:

A victim impact statement is a statement from the victim that provides additional information about the impact of the crime including financial losses, physical injuries and emotional concerns. It can be beneficial for the victim to complete a victim impact statement as soon as possible. The statement will assist in the preparation of the prosecutor's case and determination of appropriate restitution.

Victims can make an impact statement either in person or in writing for the following hearings: Initial appearance of the defendant, at any hearing in which the court will be addressing release conditions (i.e. bond reduction hearing), at the change of plea and at the sentencing.

A copy of the victim impact statement is given to the defendant's attorney and is provided to the pre-sentence investigator for preparation of the pre-sentence report the investigator is preparing for the Judge. If you prepare an impact statement to be given to either the prosecutor, Judge or pre-sentence investigator, you need to submit your impact statement approximately a week prior to the scheduled hearing.

Please, do not send your impact statement early – it only adds confusion and may be misplaced by the prosecutor, defense attorney or court.

If you need help in preparing your victim impact statement, contact the Victim Services Department at 928-524-4025 and an advocate will assist you in understanding what information the statement should contain. You can also come into the office, our office is located in the Navajo County Attorney's Office at 100 E Code Talkers Drive, Holbrook, AZ 86025.

The Plea Agreement:

Before the trial, the prosecuting attorney may discuss the possibility of a negotiated case settlement with the defense attorney. The defense attorney may seek an agreement enabling the defendant to plead guilty to the original charge, a lesser charge, a dismissal of some charges or an agreement to recommend a particular sentence.

Most cases are resolved through plea agreements. Such stipulated guilty pleas take into account the particular facts of the case as well as a defendant's prior criminal history, if any. **Plea agreements also result in convictions more quickly than trials.**

You will receive a letter outlining the plea offer to the defendant. If you would like to discuss the plea offer with the prosecutor, please contact the Victim Service Department at 928-524-4026 and arrangements will be made to have the prosecutor contact you. It is important to remember that this service is only provided upon request by the victim or their lawful representative.

As a victim, you have the right to be present and make a statement to the court if you have an objection to the plea agreement offered. You also have the right to confer with the prosecutor regarding the plea agreement before it is accepted. The Judge may consider your opinion when deciding whether to accept the plea agreement. Upon the acceptance of the plea agreement, the Judge will enter a finding of guilty against the defendant.

The Trial:

If a plea agreement is not reached, the case may go to trial. All parties to the case, including the witnesses for the prosecution and defense, will be subpoenaed in advance to testify before a Judge and/or jury. Witnesses are excluded from the courtroom until they have testified. This rule does not pertain to the victim, as a victim, you have the right to remain in the court room throughout the entirety of the Trial. The argument for this rule is to ensure that one witness is not influenced by the testimony of another witness.

Once the jury has been selected and sworn in, the prosecution and defense make opening statements to the jury to explain the case. The Deputy County Attorney then presents the case against the defendant. It is the responsibility of the state to prove “beyond a reasonable doubt” that a crime was committed and that the defendant is guilty of committing the crime. To meet this burden of proof, the Deputy County Attorney presents evidence and calls witnesses to testify. Witnesses are required to testify under oath and may be cross-examined by the defense attorney.

After the prosecutor presents the case against the defendant, the defense has an opportunity to present its evidence. On advice of counsel, the defendant may or may not testify. As is the case with the prosecution, defense witnesses are subject to cross-examination by the prosecutor.

Following the defense’s case, rebuttal witnesses may be called by the prosecutor to discredit statements and facts presented by the defense. At the end of the trial, attorneys for the prosecution and defense make their final arguments to the Judge and/or jury. The Judge instructs the jury in matters of law as it applies to the case, as well as about the duties of the jury.

The prosecution must prove its case “*beyond a reasonable doubt*”. Since a unanimous verdict is required by law, a jury that is unable to reach an agreement on a verdict is declared “hung” by the Judge. The state may then request the case be retried within 60 days. If the jury returns a verdict of “not guilty”, it means that, in the jury’s opinion, the state failed to prove the case beyond a reasonable doubt and the defendant is released. If this occurs, the state cannot appeal the jury’s verdict and the matter cannot be retried. If the jury returns a verdict of “guilty”, the Judge sets a sentencing date.

The Sentencing:

If the defendant pleads guilty or is found guilty following a trial, the Judge will set a date for the defendant to be sentenced. In felony cases, sentencing will generally be held within 30 to 45 days. In the meantime, the court requests a presentence report on the defendant from the County Probation Department.

The presentence report discusses the defendant's life plus any other crime(s) the defendant may have committed. It may also include a recommendation for a specific sentence. The probation officer will contact the victim(s) as part of the investigation. **The victim may submit a written statement to the Judge through probation officer.** In some situations, when either the prosecution or the defense has strong feelings about the recommended sentence, testimony especially relevant to the sentence may be heard. **If you are the victim, you are allowed to make a statement to the Judge at the time of sentencing.**

Arizona law requires the Judge to order the defendant to pay restitution if the victim has suffered a monetary loss directly related to the crime. Restitution will be ordered as condition of probation or parole.

If the defendant is placed on probation, restitution payments are made to the Navajo County Superior Clerk of the Court's Office. If you do not receive restitution payments within a reasonable amount of time, approximately two (2) months after sentencing, check with the Navajo County Clerk of the Court's Office – Fines & Restitution Division. If you do not receive a restitution payment for 3 or more consecutive months, contact the defendant's probation officer.

If the defendant is sentenced to prison, the Judge may order that a portion of the defendant's prison salary (if the defendant chooses to work while in prison) may be ordered to pay restitution to the victim. The Judge may also order that a portion of the defendant's "inmate account" be used to pay toward the victim's restitution. If you have questions regarding restitution payments you can contact the Navajo County Clerk's Office and request to speak with the restitution clerk. You can also receive assistance through the Arizona Department of Corrections Victim Services Department.

If the defendant is sentenced to prison and later released on parole, restitution payments are made to the defendant's parole officer and any questions concerning restitution payments when a defendant is on parole are to be directed to the defendant's parole officer.

Post-Conviction:

After the sentence is imposed, the Navajo County Prosecutor's Office will send you a copy of the "Post-Conviction Notification Request" form. If you are interested in receiving post-conviction notification, you will need to complete this form and forward it to the appropriate agency to opt-into your post-conviction rights. The Navajo County Attorney's Office will not forward this

information automatically. It is also important to send a copy of this form back to the Navajo County Attorney's Office.

When placed on probation, the defendant is under many restrictions on his/her conduct and travel. Any inappropriate action by the defendant placed on probation, including unauthorized contact with victims and witnesses should be reported to the county adult probation office.

When sent to the Arizona Department of Corrections, the defendant may become eligible for parole (now called Community Supervision), unless the crimes requires the defendant to serve every day of the sentence. The Arizona Board of Executive Clemency, an agency separate from the Arizona Department of Corrections, is the agency that determines whether an inmate is to be released from prison on parole. They should be contacted if any problems occur.

As a victim, you have the right to be notified of a parole hearing by the Arizona Department of Corrections when they are considering releasing the defendant from prison. You have the right to be notified of the release date of the defendant **if you have filled out and returned the Post-Conviction Request Form**. It is the Department of Corrections or the Navajo County Jail's responsibility for notifying the victim of an inmate's release from custody. **If you are the victim, it is important to keep your contact information current.**

The Appeal:

After the defendant has been convicted of a crime, the conviction may be appealed. An appeal is a formal request from the defendant or his/her attorney asking for an appellate court to review the case to determine whether all of the defendant's rights were observed or whether the proper procedures and laws were followed.

Depending on the type of appeal, either the Navajo County Attorney's Office or the Arizona Attorney General's Office will handle the appeal on behalf of the state. Cases are reviewed when an appeal is submitted in writing. In some case, oral arguments of the attorneys are heard by the court; testimony from the victims and/or witnesses is not allowed.

If you would like to be notified of any appeals of a felony conviction to a higher court, you must fill out the Post-Conviction Form and return each page to the appropriate agency listed in the directions. IF YOU DO NOT FILL OUT THE FORM AND RETURN IT TO THE APPROPRIATE AGENCY, YOU WILL NOT BE NOTIFIED OF ANY APPEALS THE DEFENDANT MAY FILE.

DEFINITIONS

ADULT CRIMINAL JUSTICE SYSTEM

Accused: A person or entity accused of committing a crime.

Acquitted: A jury or judge returns a verdict of not guilty.

Appeal: A defendant requests a higher court to review the verdict.

Arraignment: A court hearing in which the defendant stands before the Judge to answer criminal charges by entering a plea of guilty or not guilty and a Case Management Hearing is scheduled.

Arrest: A person who is accused of a crime is taken into custody.

Bond/Bail: A Judge will order a certain amount of money to be posted to ensure that a defendant will appear for court. Securities posted as bail are returned when the court appearances are completed.

A bond is not used as a means to keep a suspect in jail. A bond ordered by a Judge is to ensure that the suspect shows up for future court proceedings.

Case Management Conference: A court hearing when plea offers, interview issues and pre-trial motions (motions filed by the defense team or the prosecutor) are discussed

Change of Plea Hearing: A court hearing in which the defendant pleads guilty or no contest to certain charges; his/her rights are explained and a Judgment and Sentencing hearing is scheduled.

Charging: The initial legal process where the prosecutor files court papers (by criminal complaint or indictment) which accuse a person of committing a crime.

Community Service: Additional requirement on a sentence of probation in which the defendant must perform work without pay for a public service organization.

Community Supervision: This is the new word for **parole**. After a defendant is released from prison, he/she is placed on Community Supervision. Supervision is for a time equal to 1/7 of the original prison term.

Cross Examination: When a witness is questioned by an opposing attorney.

Defendant: A person or entity charged with committing a crime.

Defense Attorney: An attorney who represents the defendant in criminal proceedings.

Deposition: An interview of a witness set by court order, taken under oath and recorded by a court reporter.

Deputy County Attorney/Prosecutor: An attorney employed by the County Attorney's Office whose job it is to prosecute those accused of committing crimes.

Direct Examination: An attorney questions a witness that he/she called to testify.

Discovery: the pre-trial process by which one party becomes aware of the evidence gathered by the other party.

Donald Hearing: When there is an offer on the table (plea agreement), the Judge will often conduct a Donald Hearing. In this hearing, the judge informs the defendant of the terms of the offer. The exact sentence he or she will get (or the sentence range), and also outlines the risks of not accepting the offer, including the minimum and maximum sentence he or she would receive if the deal is rejected and he or she is ultimately found guilty.

Evidentiary Hearing: An evidentiary hearing is a form of judicial proceeding that has several different uses in legal systems. In some cases, the term is synonymous with a [preliminary hearing](#), which allows a judge to decide if the prosecution has enough evidence to proceed to a trial. The term may also be used to describe a type of trial where evidence, such as witness or expert testimony and documentation is presented to the court in order to reach a decision on a civil matter.

At a preliminary evidentiary hearing, a judge may be trying to ascertain two main criteria. First, the judge must be given evidence that the alleged crime took place in the jurisdiction of the court. This will not only deal with where, geographically, the crime occurred, but also if the crime is within the scope of the court's power. A regional court, for instance, would probably not be willing to prosecute a case that clearly involved a federal crime, as this would be beyond its jurisdiction.

The second part of a judge's job at an evidentiary hearing is to determine if the prosecution has enough evidence to prosecute. If the prosecution cannot produce credible evidence to suggest that the defendant committed a crime, the judge may order dismissal of the case and the immediate release of the detained defendant. Many legal experts recommend that a defendant, whether guilty or innocent, insist on counsel being present at the hearing.

Evidentiary hearings may also be called if parents or guardians are accused of abuse or neglect. These proceedings require evidence to be produced that confirms abusive or negligent behavior before children are allowed to be placed in foster care or the custody of another guardian. Oral testimony may also be allowed in these hearings, often from the children involved in the case.

Felony: A major crime punishable by imprisonment of more than one (1) year in the Arizona Department of Corrections (prison).

Grand Jury: A group of 9-16 citizens who serve a term of not more than 120 days to hear charges of criminal behavior. Their indictment called a “true bill” can lead to a trial of the accused.

Initial Appearance: A court hearing within 24 hours of a person’s arrest at which time the Judge determines release conditions, sets a preliminary hearing in felony cases or sets an arraignment in misdemeanor cases.

Investigation: The process of collecting evidence by law enforcement officers to determine whether a crime has been committed.

Judgment and Sentencing: The Judge imposes a sentence on the defendant and could set a restitution hearing if there are disputed restitution issues.

Judge: The public officer authorized to preside over hearings and determine cases in a court of law.

Jury: A group of citizens sworn to hear testimony and evidence at a trial who decide if a defendant is guilty or not guilty of committing the crime(s).

Justice of the Peace Court: A court in a precinct in the county that hears misdemeanor cases occurring in that county; handles Preliminary Hearings for felony cases and oversees civil cases when the dollar amount in dispute is less than \$10,000.00.

Misdemeanor: An offense less serious than a felony punishable by a sentence other than prison.

Mistrial: A trial that ends when a rule of criminal procedure has been violated or if the jury cannot reach a unanimous decision.

Motions: A written or oral request by the prosecutor or defense attorney for the Judge to make a specification.

No Contest Plea: A plea the defendant enters in the court that doesn’t contest the facts presented by the State but does not admit guilt. The court will still enter a finding of guilt.

Own Recognizance Release: A defendant with extensive ties to the community is released from custody without posting bond by promising to appear at the next court date.

Plea Agreement: An agreement between the prosecutor and the defendant in which the defendant agrees to plead guilty or not contest to avoid trial.

Preliminary Hearing: A court hearing used to determine whether the person charged with a felony should be held for trial.

Pre-Sentence Report: A report prepared for a Judge by a pre-sentence investigator that describes the crime, the defendant's past behavior, the impact of the crime on the victim and recommends a sentence.

Pre-Trial Interviews: Informal interviews conducted by the prosecutor or defense attorney before the trial where witnesses are questioned about their knowledge of the crime(s).

Probable Cause: The amount of proof needed to determine that a crime occurred and the defendant probably committed the crime.

Restitution: Court ordered money the defendant pays the victim as a condition of the defendant's sentence for reimbursement of out of pocket expenses directly related to the crime.

Rule 11 Examination: A psychiatric evaluation to determine whether the defendant is competent to stand trial and is able to assist with his/her defense.

Sentence: Punishment set by the court within the statutory range.

Subpoena: A written order requiring a person to appear in court at a specific date to give testimony.

Summons: A legal order requiring a defendant to appear in court for an initial appearance or arraignment.

Superior Court: A trial court where felony cases, civil cases in which over \$10,000.00 is in dispute and appeals from the municipal and justice court are heard.

Trial: A court proceeding where testimony is presented to a judge or jury to determine whether the defendant is guilty or not guilty.

Verdict: The formal decision of a trial jury.

Victim Impact Statement: A statement prepared by the victim that describes the emotional, financial and/or physical impact the crime has had for him/her.

Warrant: A legal order sent to law enforcement directing them to arrest the person named in the document.

Witness: A person who has seen or knows something about the crime.

THE JUVENILE JUSTICE SYSTEM

The Juvenile Justice System uses terms that are different than those used in the criminal justice system. The **purpose** of the **juvenile justice system** is **rehabilitation**. The **purpose** of the **criminal justice system** is **punishment**.

The following will explain the juvenile procedures and the language used. References will be made to similarities between the criminal and juvenile justice systems, where possible.

Arrest/Referral:

A juvenile who commits a delinquent act (crime) may be arrested by a law enforcement officer just as an adult could be. If the juvenile cannot be taken to the Juvenile Detention Center (see “Detained”), the juvenile will be “paper referred” to the Navajo County Probation Department – Juvenile Division.

A referral is basically the same as an adult citation. It lists the crime the juvenile committed, the date and location of the offense and a few details about the delinquent act. The referral is forwarded to the Probation Department – Juvenile Division once the police report is completed.

Adjustments:

Once the probation department receives the referral and police report, a decision will be made whether or not the juvenile will be allowed to adjust the referral. The adjustment process is controlled by statute. An adjustment is handled through the probation department. If the juvenile successfully completes the adjustment process, no petition will be filed and the matter is closed at that point. The adjustment process is based on the rehabilitative purpose of the juvenile justice system.

To qualify for an adjustment, the offense must either be an incorrigible act (truant, curfew violation, runaway juvenile) or a misdemeanor by the adult criminal standards. If it is a misdemeanor, it can only be the first or second time the juvenile has been referred.

To successfully adjust the referral, the juvenile and a parent or guardian must appear for a scheduled appointment with a probation officer. They will be required to view a videotape on the juvenile justice system. The probation officer will interview the juvenile and parent/guardian and hear the juvenile’s side of the story.

The juvenile must admit responsibility for his/her involvement in the offense, accept the consequences imposed by the probation officer and complete those consequences within the allowed time. Typical consequences imposed by the probation officer may include community work service, essays, various counseling programs and restitution.

If the juvenile does not meet these requirements, the referral will be forwarded by the probation officer to the Navajo County Attorney's Office for review and possible filing of formal charges (see "Petition").

Detained:

A juvenile who commits a serious crime may be booked into the Juvenile Detention Center located in Holbrook. This is equivalent to an adult going to jail.

The determination whether or not to book a juvenile is made by the probation officer at the time of the offense. The probation officer or arresting officer will base the decision on the juvenile's known delinquent (criminal) history, the offense committed, the facts surrounding the offense, the juvenile's home situation and the availability of beds in the detention center.

Petition:

The petition is the document which charges the juvenile with a crime. It is similar to a felony information, grand jury indictment or a criminal complaint.

The petition lists the juvenile's name, date of birth, sex, address and parents. The petition then lists the delinquent act(s) the juvenile is accused of committing, including the date and location of the offense. A petition may list multiple offenses committed on different days. Both felonies and misdemeanors may be charged in the same petition.

If a juvenile is detained, the prosecuting attorney's office must file a petition within twenty-four (24) hours of the juvenile being booked, or allow the juvenile to be released. If the juvenile fails the adjustment process, the Deputy County Attorney must decide whether to file a petition within thirty (45) days of receiving the referral from the Probation Department.

Under new Juvenile Justice Initiatives certain serious offenses can be automatically filed as adult offenses. For all court proceedings on these charges, the juvenile is treated the same as an adult offender. Please refer to the Adult Criminal Justice System section of the pamphlet for further information.

Once the petition has been filed, a detention hearing must be held within an additional twenty-four (24) hours. The prosecuting attorney's office tries to have the petition filed and the detention hearing held within the first twenty-four (24) hours after the juvenile is booked.

If the Deputy County attorney or probation officer decides the juvenile should be detained pending the outcome of the case, a detention hearing will be held. It is the prosecuting attorney's responsibility to bring witnesses and evidence to prove both probable cause and reasonable grounds to detain. "Reasonable grounds" requires the same level of proof as probable cause. (A definition of probable cause is listed under "The preliminary Hearing/Grand Jury" in the adult criminal justice system section of the pamphlet.)

At the detention hearing, the judge must first decide if there is probable cause to believe the juvenile committed the alleged offense stated in the petition. If the Judge decides that there is probable cause, he/she must then decide whether the juvenile needs to be detained.

The Judge must find at least one of the four factors for “reasonable grounds” listed in the “Rules of Juvenile Procedure” which are:

- **The juvenile is wanted in another jurisdiction;**
- **The juvenile won’t appear at future court hearings, if released;**
- **The juvenile is going to commit other offenses if released;**
- **It is in the juvenile’s or public’s interest to detain the juvenile.**

If the court cannot find that even one of these factors applies, the juvenile must be released.

Following the detention hearing, the court will set a date and time for the adjudication hearing which is the next step in the court proceedings (see “Adjudication”). If the juvenile has been ordered to be held in custody, the court may accelerate the hearing date. If the court does not accelerate the hearing date, the adjudication is usually held about thirty (30) days after the detention hearing.

Conditional Release:

Often the parties will stipulate to a conditional release of the juvenile to a parent or guardian. If the parties stipulate to release the juvenile, not testimony or evidence needs to be presented to the court.

The parties agree that the juvenile may be released to a parent or guardian on conditions set by the court and probation officer. If there is a victim, one of the conditions may be that the juvenile has not contact with the victim or the victim’s family.

If there is evidence that the juvenile violated any of the terms of release, he/she can be booked back into the detention center and held until his/her next court date. The judge may accelerate the next hearing date since the juvenile will be in custody.

Advisory Appearance:

The advisory hearing, initial appearance and detention hearing are often held together. At the advisory hearing the judge will advise the juvenile of his/her constitutional rights. Juveniles have the same basic constitutional rights as defendants in the adult criminal justice system.

After being advise of his/her rights, an attorney will be appointed for the juvenile if he/she wants one but cannot afford to hire one. The court will then ask the attorney if the juvenile wants to admit or deny (equivalent to guilty or not guilty) the allegations in the petition. This hearing is

similar to an arraignment in adult court. If the juvenile is in custody, the court will proceed with a detention hearing.

Prior to the end of the advisory appearance, the court will schedule an uncontested adjudicatory hearing (see “Adjudication”). This is the next step in the court proceedings. The uncontested adjudicatory hearing is usually held about thirty (30) days after the advisory appearance.

Uncontested Adjudicatory Hearing:

An uncontested adjudicatory hearing is comparable to a case management conference in adult court. Between the advisory appearance and the uncontested adjudicatory hearing, the Deputy County Attorney will prepare and offer the juvenile a memorandum of agreement (plea agreement). If the juvenile accepts the offer, a disposition agreement will be entered at the time that was scheduled for the adjudication. The disposition agreement is similar to a defendant’s stipulated guilty plea.

If the juvenile rejects the offer, the matter will be set for a contested adjudicatory hearing. This is a trial before the judge without a jury. The court will set the contested hearing to be held within two (2) to four (4) weeks. If the contested adjudicatory hearing is held it is likely that you, the victim, will have to testify in court. You will be contacted by the County Attorney’s Office to advise you of the status of the case. A victim advocate can accompany you to court if you wish.

Disposition:

The disposition hearing is similar to a defendant’s judgment and sentencing. Keep in mind that the purpose of the juvenile system is rehabilitation of delinquent children – not punishment. Disposition ranges of juveniles are set out in the Arizona Revised Statutes. The court can only order those things which are authorized by the statutes.

It is important to remember that the Juvenile Justice System only has authority over a Juvenile defendant while the child is under the age of 18. The State has to take into consideration the child’s age when recommending a sentence to ensure we do not exceed this requirement. If a child is very close to turning 18 years of age when an offense is committed, in some cases that report will be held until the defendants 18 birthday and then referred for adult prosecution.

The following are possible dispositions of juveniles:

Standard Probation:

Standard probation usually extends for around one (1) year under the statutes. In certain circumstances, the court may order that probation extend beyond one (1) year. Even if the juvenile is placed on probation for one (1) year, if he/she does not pay all fines or restitution owed or violates the terms of probation, the court may extend the length of the juvenile’s probation, possibly until his/her eighteenth birthday.

Juvenile Intensive Probation Supervision (JIPS):

JIPS is a special form of probation that can extend until the juvenile turns 18. It requires the juvenile to be in a combination of school, counseling and work or community work service. At all other times, the juvenile is required to be home unless he/she has permission from the probation officer to be out of the house.

Department of Juvenile Corrections (DOJC):

This is the state department which houses juveniles in secure facilities. Once a juvenile is committed to the DOJC, the Juvenile Superior Court is no longer involved with the juvenile's supervision. The juvenile will be sent to a secure facility, such as Adobe Mountain, for a length of time set by the court based on DOJC guidelines. This is similar to an adult being sent to prison.

Juveniles can be paroled after they have served their time in the secure facility. However, they remain under the jurisdiction of DOJC until they reach the age of 18.

If the secure facilities throughout the state are at 98% capacity, DOJC can attempt to release juveniles. If a juvenile is to be released from a secure facility prior to the time the court ordered, DOJC must contact the prosecutor, the judge and the victim, - if the victim requested notice of the juvenile's release.

DEFINITIONS

JUVENILE JUSTICE SYSTEM

Uncontested Adjudicatory Hearing: A proceeding similar to a Case Management Conference in Adult court. The state and defense informs the court of the status of the case and how close they are to a resolution. The Memorandum of Agreement can also be accepted at this hearing or if the state and the defense cannot come to an agreement the case can be set for a Contested Hearing.

Delinquent Juvenile: A juvenile who commits an illegal offense. If the same offense had been committed by an adult, the offense would be a criminal act.

Petition: A legal document filed in the juvenile court alleging that a juvenile is delinquent and requests the court assume jurisdiction over the youth. The petition initiates the formal court hearing process of the juvenile court. The county attorney, who determines what charges to bring against the juvenile, prepares the delinquent petition.

Referrals: Referrals can be made by police and probation officers requesting that the juvenile court assume jurisdiction over the juvenile's conduct. Referrals can be "paper referrals" issued as citations or police reports or "physical referrals" as in an actual arrest and custody by law enforcement. Juveniles may have multiple referrals during any given year or over an extended period of time between the ages of 8 – 17.

Transfer Hearing: A transfer hearing is held when the county attorney requests that the juvenile court consider transferring its jurisdiction of the juvenile to the adult criminal division of the Superior Court.

COMMONLY ASKED QUESTIONS ABOUT THE CRIMINAL JUSTICE SYSTEM

QUESTION: *Why does a defendant plead “not guilty” at the arraignment when he really is guilty and knows it?*

ANSWER: A defendant has an absolute right to discuss the case with an attorney and a judge will encourage him/her to do so before pleading guilty. The attorney will explore possible defenses as well as suppress evidence if it was not legally gathered. By pleading “not guilty” at the arraignment, the defendant has a chance to discuss these matters with his/her attorney.

QUESTION: *Why are there so many plea agreements?*

ANSWER: Nationwide, about 95% of all cases are resolved through stipulated plea agreements and Navajo County is no different. Plea agreements are both allowed and encouraged by law and court rules. Plea agreements allow for appropriate sentences as each case, each defendant and each victim are unique. Plea agreements also avoid the uncertainties of trial in which the defendant is presumed innocent and the state must prove guilt “beyond a reasonable doubt”.

QUESTION: *What does “proof beyond a reasonable doubt” mean?*

ANSWER: The phrase means the state must produce enough evidence in court to convince each and every juror that the defendant committed the crime. Jurors must find the defendant “not guilty” if they believe there was not enough evidence produced to overcome any doubts they have. It is an extremely high standard of proof of guilt. Generally, if a case is only one person’s word against another, the defendant will be found “not guilty” even if the jury thinks the defendant is probably guilty.

COMMON CONCERNS

For most people, involvement in the criminal justice system as a result of being a victim of crime or a witness of a crime raises many concerns. It is the Navajo county Attorney’s Office and the Victim/Witness Program’s desire to minimize any hardships you may encounter.

Tips for Pre-Trial Interviews:

The Arizona Rules of Criminal Procedure allow the attorney for the defendant to interview all of the state's witnesses before trial and for the Deputy County Attorney to interview the witnesses for the defendant before trial so both sides can fully prepare their case.

As a victim, you have the constitutional right **not** to talk to the defendant's attorney or investigator. You may discuss the case with them if you wish to do so. The choice is entirely your own. You may simply say, "I'm sorry but the answer is no." However, if you do agree to an interview with a representative of the defense, these suggestions can help you deal with it.

You may set conditions on the interview. These conditions may include:

- **NOT** agreeing to be interviewed if the defendant is present;
- **SCHEDULING** the interview at your convenience and requesting that the Deputy County Attorney be present. The defense attorney's job is to protect the rights of the defendant. The Deputy County Attorney can assist you in asserting your rights as a victim and help protect your interests during the interview;
- **YOU** have the right to have a support person with you during this interview. This person may not answer questions for you or interrupt the interview;
- **BECAUSE** this is an informal interview, you are allowed to take breaks for something to drink or use the restroom.

The following are additional tips for the interview:

- First and foremost, you should **always** do your very best to tell the truth.
- Before the interview, try to picture what happened so you can recall the event accurately when you are questioned
- If you give a statement to a representative of the defense, you do not have to sign the statement. However, any statement you make during the interview, even if not signed, may be used to try to challenge or discredit your court testimony, if your testimony differs from the original statement. This even applies to oral statements or comments.
- If you sign the statement, be sure to read it carefully first and correct any mistakes. Also, ask to have a copy. Whether you sign the statement or not, you may tell the defense representative that you will refuse to give a statement unless you receive a copy of it. If you agree to an interview, let the Deputy County Attorney know.
- Speak up. Do not nod "yes" or "no". If the answer requires more than a "yes" or "no", ask to explain your answer.
- If you do not understand the question, say so. If you did not hear the question, ask for it to be repeated. If you do not know the answer, say, "I don't know". Do not guess. If you are estimating time or distance, say it is an estimate.
- Answer questions fully but do not volunteer information that is not asked for.
- If you make a mistake in an answer, say so and correct it.

- Do not lose your temper or argue with the attorneys. Try to remain calm so that you can give a correct answer to a question.

If you have any questions, please contact the Deputy County Attorney assigned to the case.

Testifying in Court:

When you are called to court as a witness, you will receive a subpoena. This subpoena tells you the date, time and place where you are to appear. The subpoena also has a telephone number for you to call the afternoon before you are to appear so that you can confirm the time, etc. **Court dates are commonly continued and calling the afternoon before may save you from going to court unnecessarily.**

Witnesses are not allowed in the courtroom before they testify. The reason for this is so their testimony won't be influenced by what they hear from other witnesses.

As the victim, you have the constitutional right to be present throughout the trial. However, if you decide that you would rather not do this, the Victim/Witness Advocate can make other arrangements. The prosecuting attorney or Victim/Witness Advocate will escort you into the courtroom when it is time for you to testify.

When you have finished testifying, you may remain in the courtroom if you wish.

Prior to taking the witness stand, the Judge's clerk will ask you to state your name and ask you to take an oath. The oath is your promise that you will tell the truth when testifying. You will then take the witness stand. When you are seated, the microphone will be adjusted so you are comfortable and can be heard.

Tips for Testifying:

- Dress Appropriately
- Be on time. You may want to bring a book or magazine with you in case you have to wait.
- Review the case in your mind a day or two before court to help you remember what occurred. You may ask the Deputy County Attorney to let you review any statement you gave in order to refresh your memory.
- Always tell the truth.
- **When on the witness stand, listen carefully to the questions. Answer any question that is asked without offering extra information.**
- Speak loudly and clearly enough for the Judge, jury and court reported to hear you. Do not chew gum when you are testifying.
- **Stop testifying when one of the attorneys "objects" to a question or if the Judge asks you to. Do not answer the question until the Judge tells you what to do. If you are told to answer the questions, you may ask the attorney to repeat it.**

- Do not be afraid to say that you have discussed the facts of the case with other people such as your family, the police, the Deputy County Attorney or the defense attorney (if you agreed to a pre-trial interview).
- During the trial **do not** discuss your testimony with anyone except the prosecuting attorney. This includes your family, friends or other witnesses. After the jury has reached a verdict, you may discuss your testimony and the testimony of others. **TO DO SO BEFOREHAND MAY CAUSE A MISTRIAL.**

Dressing for Court:

Navajo County Courts do not have a mandated dress code. However if you are making a court room appearance it is recommended to dress court room appropriate. Below is our recommended dress code for court.

Purpose:

All parties, including Counsel and witnesses, shall be dressed appropriately for Court. Any clothing, which is disturbing and distracting in court is inappropriate. Clothes and appearance must be safe and not disruptive to the judicial process.

Procedure:

This Dress Code includes, but is not limited to the following:

1. Midriff/Stomachs are to be covered at all times.
2. No halter-tops, tank-tops, or muscle shirts are to be worn. Backs are to be covered at all times.
3. No miniskirts or short-shorts allowed.
4. With religious and medical exception, no hats, headscarves, headbands, or kerchiefs may be worn. Sunglasses shall be removed in court.
5. Shoes must be worn at all times.
6. No exposed underwear.
7. Clothing that advertises substances (drugs, alcohol, tobacco products) or language or writing that is otherwise inappropriate or offensive (sex, profanity, racial or ethnic slurs, gang-related attire, etc.) may not be worn. Tattoos that display language, writing or caricatures of items listed above must be covered.
8. Trousers are to be worn at the waist line and shirttails are to be tucked in. Clothing that is intentionally torn in inappropriate places is prohibited.

Witness Fees:

Arizona does not provide for witness fees in criminal cases. In limited circumstances, funds may be available to assist the state's witnesses with costs associated with the trial such as transportation, food and in some cases, motel rooms. If this is a need, arrangements HAVE to be made before the court date. Contact Victims Services for further information.

Civil Lawsuits:

If you are a victim of crime, you may file a civil lawsuit against the offender or any other entity you believe to be at fault for your victimization. You may file a civil lawsuit or see the assistance of a private attorney.

The Navajo County Attorney's Office cannot assist you with a civil lawsuit.

However, if a defendant enters a guilty or not contest plea or is convicted at trial, this may be admissible in a civil lawsuit.

RESTITUTION

Restitution is an order by the court for the offender to reimburse you for any out of pocket expenses directly related to the crime. Restitution is ordered at the time of sentencing and may include expenses for lost property, medical, funeral, counseling expenses and lost wages. **RESTITUTION CANNOT BE ORDERED FOR "PAIN AND SUFFERING"**. If you want compensation for "pain and suffering" you suffered as a result of the crime, you must hire a private attorney and file a civil lawsuit.

If you want to ensure that restitution is ordered, it is very important to keep receipts of your expenses. The Navajo County Attorney Victim/Witness Program provides a restitution form that you need to fill out, attach copies of your receipts and submit to the Victim/Witness Program.

Only in the rarest of case will you receive your restitution in one payment. **DO NOT EXPECT TO BE PAID THE ENTIRE AMOUNT OF RESTITUTION OWED TO YOU IN ONE PAYMENT.** The judge will order the defendant to pay restitution in a monthly sum to the Clerk of the Superior Court for felony cases and to the Justice Court that heard the case for misdemeanor cases. Once the defendant has paid his/her monthly court ordered payment, either the Clerk of the Superior Court or the Justice Court will process the payment and send you a check. If there is more than one victim in a case, each victim will receive an equal amount of the monthly court ordered restitution payment made by the defendant. For example, if you are one of 3 victims in the case in which the court ordered restitution to be paid to and the defendant was ordered to pay \$150.00 in restitution payments per month – you will receive \$50.00 per month.

If you have questions concerning restitution, please contact the Navajo County Attorney Victim/Witness Program at 928-524-4026.

CRIME VICTIM COMPENSATION

Crime Victim Compensation differs from restitution in that the funding for the program comes from a portion of fines and fees paid by defendants to the courts both at the local, state and federal level.

Crime Victim Compensation can assist in helping with out of pocket expenses for:

Medical Expenses

Mental Health Counseling

Funeral Expenses

Loss of Wages

Crime Scene Cleanup Expenses

Mileage Reimbursement

Crime Victim Compensation **cannot** consider claims for:

Property loss and damage

Pain and suffering

Expenses that would benefit the offender

A person serving a sentence of imprisonment

A person delinquent in paying a fine, monetary penalty or restitution

If the case is a sexual assault against a minor or a homicide case this requirement may be waived.

For more information on Victim Compensation or to print off a copy of a copy of our application please visit the Navajo County Victim Services Web Site. If you have specific questions, please contact Navajo County Victim Services at (928) 524-4026.

Resource Directory Assistance for Victims

This is only a partial list of agencies that can assist you. For additional resources and referrals, contact the Navajo County Attorney Victim/Witness Program at 928-524-4026.

State Offices:

Department of Child Services (DCS)	1-888-767-2445
Adult Protective Services	1-877-767-2385
Assistant with Food Stamps and WIC	1-855-432-7587
Attorney General's Office	602-542-4911

Show Low/Pinetop-Lakeside Area:

Show Low Police Department	928-537-5091
Show Low Justice Court	928-532-6030
Pinetop-Lakeside Police Department	928-368-8800
Pinetop-Lakeside Justice Court	928-368-6200
White Mountain Safe House	1-800-224-1315
White Mountain Legal Aid	928-537-8383
Family Advocacy Center	1-888-767-2445
Navajo County Attorney's Office	928-532-6002
Summit Hospital	928-537-4375
Show Low Change Point	928-537-2951
Change Point Hospital	928-368-4110

Snowflake/Taylor Area

Snowflake/Taylor Police Department	928-536-7500
Snowflake/Taylor Justice Court	928-536-4141
Snowflake Change Point	928-536-6869
Silver Creek Family Walk-In	928-536-4322

Holbrook

Navajo County Governmental Complex	928-524-4000
Navajo County Attorney's Office	928-524-4026
Navajo County Victim Services	928-524-4332
Navajo County Sheriff's Office	928-536-7327
Holbrook Police Department	928-524-3991
Holbrook Justice Court	928-524-4720
Holbrook Change Point	928-524-6126
North County-Domestic Violence Advocate	928-524-2851
Catholic Charities	928-524-9720
Bread of Life Mission	928-524-3874

Winslow:

Winslow Police Department	928-289-2431
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Winslow Justice Court	928-289-6840
Alice's Place	928-289-3003
Winslow Change Point	928-289-4658
Little Colorado Medical Center	928-289-4691