

## General Descriptions of Courtroom Procedures

The following are basic descriptions of proceedings that may occur during the course of a criminal prosecution. However, each case is unique and the court may combine issues needing to be addressed at any hearing. Please contact Victim Services if you have any questions.

**ARRAIGNMENT-** A proceeding in which the defendant is formally informed of the charges and is required to enter a 'plea of guilty' or 'not guilty'. If the defendant pleads 'not guilty' a pre-trial conference or trial will be scheduled after the arraignment. The judge decides whether the defendant may be released on bond, his or her own recognizance, or otherwise, and sets bond if applicable. The judge may order the defendant not to have contact with the victim, or set other conditions regarding the defendant's release. The judge may also appoint an attorney to represent the defendant if he or she cannot afford to hire one. This proceeding will occur within 24 hours if the defendant is in custody.

**PRE-TRIAL CONFERENCE-** A meeting at court between the prosecutor and the defendant or defendant's attorney. Both sides discuss the case to determine if the case will be resolved, continued or set to trial. The case may be resolved by dismissal or change of plea at this stage.

**CHANGE OF PLEA-** A proceeding at which the court is presented with a "plea agreement" by the prosecutor and the defendant or the defendant's attorney. The plea agreement may stipulate that the defendant pleads guilty to the original charge(s), or such other charge(s) as the prosecutor and the defendant or the defendant's attorney have agreed upon. The actual terms and conditions of a change of plea may be very complex, and may include a stipulated sentence and/or restitution.

**DISMISSAL-** Under certain circumstances the prosecutor may determine that it is necessary or reasonable to ask the court to dismiss the criminal charges. If prosecution is dismissed without prejudice, the charges may be refiled.

**CONTINUANCE-** Delays are common at all stages of the criminal justice process. Continuances are legal postponements of scheduled proceedings and may occur without warning. You may ask the prosecutor in your case to explain any proceedings you do not understand,

and you should check for court date changes in advance of any proceeding which you plan to attend.

**COMPETENCY/RULE 11-** A process in which the court determines whether the defendant is mentally competent to stand trial. If the court determines that a defendant is not competent, then the prosecutor normally will dismiss the charges.

**TRIAL-** this is a hearing before a judge (or sometimes a jury) at which time evidence is presented by both the prosecutor and the defendant or his/her attorney. The victims and witnesses are subpoenaed (summoned) to testify, and the judge or jury decides whether there is enough evidence to prove the defendant guilty "beyond a reasonable doubt."

**SENTENCING-** A court proceeding after a defendant pleads guilty or is found guilty at trial in which the judge announces the defendant's punishment. The victim has the right to be heard and to submit an impact statement at this time. This statement can include information regarding the impact this crime has had on the victim and/or victim's family and the victim's wishes regarding restitution and sentencing.

### VICTIM BILL OF RIGHTS

#### **Arizona Constitution, Article II section 2.1**

Section 2.1. (A) To preserve and protect victim's rights to justice and due process, a victim of crime has a right:

1. To be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process.
2. To be informed, upon request, when the accused or convicted person is released from custody or has escaped.
3. To be present at and, upon request, to be informed of all criminal proceedings where the defendant has the right to be present.
4. To be heard at any proceeding involving a post-arrest release decision, a negotiated plea, and sentencing.
5. To refuse an interview, deposition, or other discovery request by the defendant, the defendant's attorney, or other person acting on behalf of the defendant.

6. To confer with the prosecution, after the crime against the victim has been charged, before trial or before any disposition of the case and to be informed of the disposition.

7. To read pre-sentence reports to the crime against the victim when they are available to the defendant.

8. To receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury.

9. To be heard at any proceeding when any post-conviction release from confinement is being considered.

10. To a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence.

11. To have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and to be have these rules be subject to amendment or repeal by the legislature to ensure the protection of these rights.

12. To be informed of victims' constitutional rights.

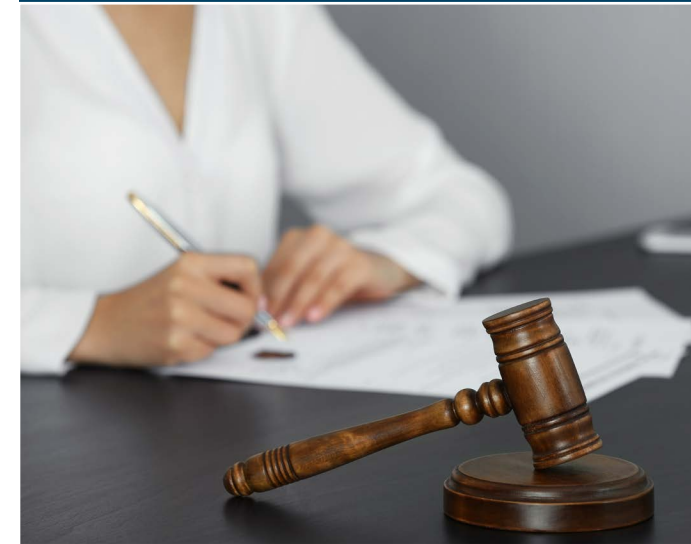
(B) A victim's exercise of any right granted by this section shall not be grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.

(C) "Victim" means a person against whom the criminal offense has been committed or if the person is killed or incapacitated, the person's spouse, parent, child or other lawful representative, except if the person is in custody for and offense or is the accused.

(D) the legislature, or the people by initiative or referendum, have the authority to enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings.

(E) The enumeration in the constitution of certain rights for victims shall not be construed to deny or disparage others granted by the legislature or retained by victims.

# Victim Assistance Program



Prosecutor's Office  
140 East 5<sup>th</sup> Street, Suite 303  
Tempe, Arizona 85281

Victim Services  
victimservices@tempe.gov  
Phone: 480-350-8285  
Fax: 480-350-8987

## You Have Rights As A Crime Victim

The City of Tempe Prosecutor's Office provides victim services for victims of misdemeanor crimes committed and charged in the City of Tempe.

Victim services provided:

- Provide information to victims regarding rights and invocation procedures.
- Educate victims on the procedures of the criminal justice system.
- Escort victims to court upon request.
- Act as a liaison between the victim and prosecutor.

## Arizona Statutory Rights for Victims

**You have the right:**

- To be notified, upon request, of the date, time and place of court hearings involving the defendant
- To be notified, upon request, of the defendant's release or escape
- To be informed of victim assistance and other available resources
- To be present at all criminal proceedings at which the defendant has the right to be present
- To be heard at any proceeding involving the defendant's release from custody
- To be given a copy of the conditions of the defendant's release from custody
- To ask the court to revoke bond or release if there have been threats or harassment by or on behalf of the defendant
- To be protected from unnecessary contact with the defendant, defendant's immediate family and defense witnesses
- To have, upon request, your home and work addresses, telephone numbers or other information that could result in locating you withheld from the defendant, his attorney, or someone acting on behalf of the defendant

## Who is a Victim?

Arizona law defines a victim as the person against whom a 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 is in custody for an offense or is the accused.

## Domestic Violence

A victim of domestic violence may seek an Order of Protection from any court. If you are in the process of legal separation or dissolution of marriage, you must apply to the Clerk of the Superior Court for an Order of Protection.

A protection order prohibits the abuser from contacting the victim, committing further offenses, going to the victim's residence (even if the abuser lived at this address), going to the victim's workplace, or any other relief necessary for the victim's protection.

The person seeking a protection order injunction may request that his/her address be kept confidential and that filing and service fees be waived if he/she cannot afford the cost. The court decides whether to waive the fees.

**IN CASE OF AN EMERGENCY, INCLUDING ACTS OF VIOLENCE OR THREAT OF PHYSICAL HARM, CALL: 911**

Victim's rights do not include the right to have a case dismissed.

## Restitution

If a defendant is charged and convicted, you may be eligible for restitution ordered by the court for repayment of costs incurred as a crime victim. Restitution may include medical expenses, property damage, lost wages and other out-of-pocket expenses. If restitution is ordered, you will be informed of the amount. All payments will be made by the defendant through the court and disbursed to you. You have the right to bring a separate civil action in addition to, or instead of requesting restitution in the criminal proceeding.

Financial compensation for pain and suffering or punitive damages can only be recovered through a civil court action; these cannot be included in restitution.

A written restitution request must be submitted before the defendant is sentenced. You must include the defendant's name and case/docket number(s). Financial losses must be clearly documented and copies of receipts, estimates, and/or bills must be attached to your request. Do not forward original documents!

## Victim Compensation

Arizona law provides crime victim compensation to U.S. residents. Victims may apply to the Victim Compensation Bureau with the Maricopa County Attorney's Office to be paid for out-of-pocket costs that have not been recovered from other sources.

You may be eligible for compensation if:

- The crime was reported within 72 hours of occurrence;
- A claim is filed within one year of the crime's discovery;
- You willingly cooperate with law enforcement agencies;
- The crime directly resulted in physical injury, extreme mental distress or death;
- Compensable loss was incurred as a direct as a direct result of the crime, and;
- You are not serving a sentence of imprisonment in any detention facility

Compensable losses include:

Medical expenses, funeral costs, loss of wages, and mental health counseling

To obtain information and/or an application, please contact the Victim Compensation Bureau at (602) 506-4955

