

**YOUR RIGHTS  
AND  
RESPONSIBILITIES  
AS A  
CRIME VICTIM  
AND  
WITNESS**



**This brochure is made available to you courtesy of the Nevada Advisory Council for Prosecuting Attorneys, the Nevada District Attorneys Association, and your local prosecutor's office.**

## Important Telephone Numbers

State of Nevada Victims of Crime Program	Southern Nevada Northern Nevada	(702) 486-2740 (775) 688-2900
Domestic Violence Hotline		1-800-500-1556
Nevada Parole and Probation Website: <a href="http://www.dps.nv.gov/pandp/">www.dps.nv.gov/pandp/</a>	Southern Nevada Northern Nevada	(702) 486-3001 (775) 687-5040
Nevada Board of Parole Commissioners Website: <a href="http://www.parole.nv.gov">www.parole.nv.gov</a>	Southern Nevada Northern Nevada	(702) 486-4370 (775) 687-5049
Nevada Department of Corrections Website: <a href="http://www.doc.nv.gov">www.doc.nv.gov</a>		(775) 887-3284
Victim Information Notification Everyday (VINE)	Statewide	1-877-332-8463
Clark County Victim Witness Assistance Center	Clark County	(702) 455-4204
Crisis Call Center	Washoe County	784-8090 or 1-800-992-5757 (V/TTY)

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## **THE PROCESS BEGINS**

### ***What Should I Do If a Crime Has Occurred?***

If you have not reported the crime, you must do so immediately by calling 911. Explain to the emergency dispatch officer what happened and if the suspect is still in the area. The dispatch officer will assign your call to the appropriate law enforcement agency to make a full report. *It is very important that you do not move, touch or destroy any evidence of the crime, as the law enforcement officer will need to photograph it and take it into evidence.*

You will be asked to fill out a statement as to what happened. It is critical that you make this statement as complete as possible. If you have trouble writing, notify the law enforcement officer of this and he/she will arrange for someone to help you. In your statement, only include what you saw or know to be true—do not speculate. *It is very important that you put down any statements the suspect made to you before, during or after the crime.* If you remember something after you have submitted your statement, you should fill out a supplemental statement and make sure it is given to the law enforcement officer who took your first statement, or the detective who has been assigned to handle the case. Even if you are not sure the information you have is important, it is better for you to fill out a supplemental statement and let the law enforcement officer or prosecutor determine whether it is necessary information. Often, cases have been lost because a witness did not give complete information to the law enforcement officer or prosecutor.

### ***Your Role as a Victim or Witness***

*As a crime victim, you are essential for the prosecution of the defendant.* However, you are not a formal party to the criminal proceeding. In a criminal proceeding, the state (or city) is the plaintiff, and the accused is the defendant. It is important that you realize the prosecutor has the discretion as to whether or not to proceed on criminal charges. Even if you do not want the defendant prosecuted, the prosecutor can proceed. The same is true if you want to prosecute and the prosecutor declines. Please keep in mind that you always have the option of filing a civil lawsuit against the defendant through a private attorney.

As a witness (non-victim), you have seen, heard or know something about a crime that has been committed, and it is important that you be prepared to testify. Oftentimes, a witness' reluctance to get involved results in a suspect not being charged, convicted or punished.

## ***The Charging Process***

Once the law enforcement officer has completed the investigation, there are several options:

1. The officer may arrest the suspect if the crime is a felony, gross misdemeanor, or a domestic violence battery that has occurred within the preceding 24 hours; or
2. The officer may submit the full crime report to the prosecutor for review and a charging decision, at which point if charges are filed, either an arrest warrant or summons to appear is issued to the defendant; or
3. The officer may suspend or close the case because of the lack of sufficient evidence on which to make an arrest or to submit to the prosecutor.

Once the prosecutor receives the investigation reports from law enforcement, he/she will review the case. The prosecutor has three options after reviewing the case: return to the case to law enforcement for further investigation; file what he/she believes are the appropriate charges in the case based upon probable cause, or decline to prosecute,

The prosecutor has the sole discretion to decide how to handle the case. If the prosecutor decides not to file charges, it is generally because he/she believes that there is insufficient evidence to obtain a conviction. It does not mean that a crime did not occur; however, the prosecutor must prove the case “beyond a reasonable doubt,” and has an ethical obligation to proceed only on those charges that are supported by the evidence.

## ***Crimes***

Nevada’s criminal laws are located in the Nevada Revised Statutes (NRS). A crime is defined as “an act or omission forbidden by law and punishable upon conviction”, and classifies criminal offenses into three categories: misdemeanors, gross misdemeanors, and felonies.

### **Misdemeanor:**

Every crime punishable by a fine of not more than \$1000, and/or by imprisonment in a county or jail for not more than six months. Community service imposed by the court is an alternative to all or part of the punishment. These crimes are handled in either justice or city courts by a justice of the peace or city judge. Guilt or innocence is determined solely by the presiding judge. A defendant charged with a misdemeanor does not have the right to have a jury trial. Some examples of misdemeanors are traffic offenses, battery (unlawful hitting), and property crimes with a value under \$250.00.

**Gross Misdemeanor:**

A crime wherein the punishment is imprisonment in the county jail for not more than one year, or by a fine of not more than \$2000 or by both fine and imprisonment. Probation is possible with this crime. This crime requires a preliminary hearing (probable cause) in front of a justice of the peace and, if enough evidence exist, bound over for jury trial in district court. An example of this crime is conspiracy to commit another crime. Very few crimes come under this category.

**Felony:**

Is the most serious criminal offense and is punishable by imprisonment for more than one year in a state prison and fines up to \$10,000.00. There are five different classes of felonies, ranging from Class E (maximum 4 years) to Class A (imprisonment for life or the death penalty). Probation is available in most felonies. Contact your prosecutor if you have any questions regarding the range of punishments. Anyone charged with a felony has the right to a preliminary hearing, and if bound over to district court, has the right to a jury trial. Examples of felonies are sexual assault, burglary, murder, robbery, weapon and drug violations.

***Arrest and Bail***

There are different procedures involved for the arrest of a defendant:

**Misdemeanor:**  
m i s d e m e a n o r

A law enforcement officer may issue a citation for a committed in his/her presence. If the misdemeanor was not committed in his presence, he/she can submit the case to the prosecuting attorney for review and possible charges. A person does have the right to make what is known as a “citizen’s arrest,” but this practice is discouraged as it makes the person who made the arrest possibly liable for wrongful arrest. It is best to have the law enforcement officer either make the arrest or submit the case to the prosecuting attorney for charging.

**Gross Misdemeanor/  
Felony:**

A law enforcement officer may make an arrest if the offense is a gross misdemeanor or felony, regardless of whether he/she was present when the crime was committed if they have probable cause to believe a crime has been committed.

**Summons:** A summons can be issued from a court, which requires a defendant to appear for arraignment and trial. A summons is generally used in misdemeanor cases where the defendant is not likely to commit any more crimes.

**Warrants:** A law enforcement officer may arrest a person who has a warrant issued by a court for their arrest.

**Bail Bonds:** A bail bond is to ensure that the defendant will appear at every stage of the criminal justice process. A defendant in a criminal case is generally entitled to have bail set in a reasonable amount. Bail bonds are usually money or security that a defendant puts forth to be allowed to leave custody. The judge sets this amount. However, a judge can increase the amount based on the seriousness of the crime, the defendant's prior criminal history, or if there is evidence the defendant might leave the area or commit further crimes. If the defendant is unable to meet the bond amount, he/she usually remains in custody pending trial on the charges. The judge has the ability to release a defendant on his/her "own recognizance" without having to post bail. This is done if the judge believes the defendant will appear for all court proceedings and is unlikely to commit any further crimes.

### ***Who Will Prosecute the Crime?***

**City Attorney:** Responsible for prosecuting misdemeanor crimes that occur within the city limits of an incorporated city. The city attorney cannot prosecute gross misdemeanors or felonies. Trials in municipal court are held before a judge and there is no right to a jury trial.

**District Attorney:** Responsible for prosecuting all crimes (felonies, gross misdemeanors and misdemeanors) that occur, except for misdemeanors committed within an incorporated city.

For the purposes of this handbook, the term "prosecutor" will be used for both city and district attorneys and their deputies.

# THE COURT PROCESS

Once a defendant has been charged with a crime and either arrested or summoned to appear before the court, he/she is given an initial appearance or arraignment. At that time, the defendant is notified of the charges and the bail amount. Depending upon the classification of the charge, the defendant is either given a trial date (for misdemeanors), or a date for a preliminary hearing (if gross misdemeanor or felony).

## *Arraignment*

At the time of arraignment, the defendant is read the charges and asked to enter a plea of guilty, not guilty or nolo contendere. If the defendant pleads guilty, the judge will sentence the defendant at that time. If this occurs, you may not have the opportunity to be heard for sentencing. If this is a serious concern for you, you should contact your prosecutor immediately and notify them of your sentencing concerns. This is especially important if you believe you are entitled to restitution.

A nolo contendere plea is treated as a guilty plea by the court, but allows the defendant to escape civil liability based on his plea. You always have the option of pursuing civil remedies, through a private attorney. You cannot stop a defendant from pleading nolo contendere.

Although misdemeanor defendants routinely plead guilty at time of arraignment, the justice of the peace does not have jurisdiction to accept a guilty plea on behalf of a defendant charged with a gross misdemeanor or felony.

If the defendant pleads not guilty, the judge will then set a trial date. The defendant is entitled to a trial within 60 days. Although defendants have this right, the date for trial will usually be set several months away unless the defendant is in custody and has not been able to make bail. Do not be surprised if the trial date is many months away, or if it is continued (rescheduled) to a later date. The court system is quite busy and courts are unable to hold all trials within a short time.

## *Preliminary Hearing*

If the defendant has been charged with a gross misdemeanor or felony, he/she is entitled to a preliminary hearing. A preliminary hearing is a probable cause hearing where the judge will decide if a crime has been committed and if the defendant probably committed it. A preliminary hearing is conducted like a trial, except that often a prosecutor or defense attorney will not put on their entire case. Remember guilt or innocence is not being decided at a preliminary hearing—just probable cause to bind the defendant over for trial in district court. If the judge does not find sufficient evidence to bind the case over for trial, it will be dismissed.

Some of the larger jurisdictions (Las Vegas and Reno) have grand juries empaneled. A grand jury functions much like a judge in deciding whether there is sufficient evidence to bind a



Once you are asked to testify, you will be reminded that you are under oath (or the oath will be given). You will be asked to give your full name and to spell it for the record.

*Direct Examination:* You will be first asked questions by the prosecutor (if the prosecution subpoenaed you). This is called direct examination. In direct examination, the prosecutor will be asking you what you saw, heard or know.

*Cross Examination:* Once the prosecutor has finished asking you questions, then the defense attorney will ask you questions. This is called cross examination. Generally, most questions under cross-examination can be answered with a yes or no. After cross-examination, the prosecutor has the opportunity to ask you questions based on any questions the defense attorney may have asked you. This is called rebuttal. The defense attorney then has the opportunity to ask you questions based on the rebuttal questions. This is called sur-rebuttal.

Once you have finished testifying you may either be excused by the court, or asked to remain for possible further testifying. Do not leave the area unless you have been excused by the judge or have spoken with the prosecutor.

After the prosecution has put on its case (called the case-in-chief), the defense has the opportunity to put on its case. The defense can call witnesses (including you) to try to show that the defendant is not guilty of the charged crime. The defendant has the right to take the stand and testify on his or her own behalf. Defendants also have the right not to testify. The prosecution has the right to cross-examine the defense witnesses, and the defense has the right to ask rebuttal questions. After the defense has put on its case, the prosecution has the chance to put on any additional witnesses to rebut the defense case.

Once both the prosecution and defense have put on their respective cases, the court closes that portion of the trial and asks for final arguments. You may be present for these arguments if you so desire. In closing arguments, the state tries to convince the court they have proven the crime beyond a reasonable doubt, while the defense attorney tries to show the opposite. The judge may make a ruling at that time, or may take the matter under advisement and issue a ruling later.

If the defendant is found guilty of a misdemeanor, then a sentence is generally handed down at that time. If you are a victim, you have the right to appear and be heard at sentencing. For further information on sentencing, see the Sentencing section of this handbook.

### ***Special District Court Trial Rules***

In a district court trial, a panel of 12 jurors (and several alternates) will decide if the defendant is guilty of the charged crimes. The jurors are selected through a process called *voir dire*, where the attorneys and judge, through a question and answer process, try to pick jurors who will be fair.

The district court judge will conduct the trial and will make rulings on what is admissible in court. The trial will be conducted as explained above.

The jurors will listen to all the evidence, and when the prosecution and defense have concluded their cases, will go into deliberations. During the deliberations, the jurors will decide if the defendant is guilty or not guilty of the charged crimes. Often times, deliberations can take several days.

If a defendant is found guilty of the charges, the district court judge will delay sentencing (usually 30-60 days) to have the Division of Parole and Probation prepare a pre-sentence investigation (see Sentencing section of this handbook).

Never attempt to talk with a juror about the case or any other matter during the trial. This includes chance meetings during recesses, in hallways, at lunch or any other place. Even if you are friends with a juror, you must not discuss the case with them.

Your conduct during a jury trial is especially critical. Dress appropriately, maintain eye contact with whoever is asking the questions, be courteous to the court and the attorneys, and always listen to the question that is being asked.

## **TESTIFYING**

The first time you are called to testify can be quite intimidating. Remember that you are there to tell the court what you know, saw or heard. The court is trying to get as much information as possible before determining whether the defendant is guilty of the charges. The defense attorney may try to confuse you about what you know, saw or heard; just tell the truth as best as you can recall.

### **General Rules for Testifying**

*Always Tell The Truth.*

*Speak Clearly.*

A court reporter needs to take down everything you say, so it is important to speak clearly. This is also very important in a jury trial.

*Listen Carefully To The Questions.*

If you do not understand the question, ask to have it repeated. If it is an improper question, an attorney will object.

*Dress Appropriately.*

Court is a very serious matter, and you should dress neatly. Shorts, tank tops, t-shirts or clothing with offensive language or designs are not appropriate courtroom attire. Talk to your prosecutor if you have any questions about what is appropriate for court.

*Do Not Lose Your Temper Or Use Foul Language.*

*Do Not Argue With The Attorneys.*

*Do Not Volunteer Information or Exaggerate.*

Answer only the questions that are asked.

*Bring Any Records Or Documents That You Are Requested To Bring.*

Know what is in those records and make sure the prosecutor has copies.

*Testify Only To The Facts You Observed Or Know.*

Do not speculate or give your personal opinion unless asked to do so.

*If Either Attorney Or The Judge Makes An Objection, STOP Until The Judge Tells You To Continue.*

*If Your Answer Was Not Correctly Stated, Then Correct It Immediately.*

*Do Not Guess If you're Not Sure.*

*After Being Excused From The Stand, Do Not Discuss The Case In Halls, Restrooms Or Anywhere You Could Be Overheard.*

*If You Are asked if You've Discussed The Case, Tell The Truth. There Is Nothing To Hide.*

*Your Behavior Out Of The Courtroom Is As Important As Your Behavior In The Courtroom.*

*Arrange For Childcare When You Come To Court.*

Children should not be brought to court unless they are included on a subpoena

If an answer is going to make you criminally responsible for something, you can refuse to answer on the grounds of self-incrimination. You should mention this to the prosecutor prior to trial, and/or retain a private attorney.

## ***Plea Negotiations***

Many criminal cases are negotiated, whereby an agreement is reached between the State (and city) and the defendant. If a plea agreement is reached, there will be no trial. It is often to the state's advantage to enter into a plea agreement due to lack of evidence, missing witnesses or various other reasons. If you, as a victim, have concerns about restitution or other issues, you should contact your prosecutor and inform him/her of those concerns so that they might become part of the agreement. The plea agreement is not final until a judge has approved it. The judge does not have to follow any sentencing recommendations that may be part of the plea agreement.

## AFTER THE TRIAL

### *Sentencing*

Whether the defendant has pleaded guilty, or was found guilty by a judge (misdemeanor) or jury (felony and gross misdemeanor), the presiding judge is responsible for handing down a sentence. For the various available penalties, see the classification of crimes section. Do not try and contact the judge regarding sentencing of the defendant. Express your concerns to your prosecutor and, if a felony case, to the parole and probation officer.

A *pre-sentence investigation* is required for anyone who pleads or is found guilty of a felony, and is optional for those convicted of a gross misdemeanor. The pre-sentence report looks at the defendant's prior criminal history, employment, education, alcohol/drug abuse, and other factors in determining an appropriate range of punishment for the defendant. The judge is not bound to follow the recommendations contained in the pre-sentence report—rather; the judge uses the report as a basis for determining the appropriate punishment.

As a victim in a felony (and possibly gross misdemeanor) case, you will be contacted by the Division of Parole and Probation for a sentencing statement and any restitution to which you may be entitled. ***It is very important that you fill out the statement and return it to the parole and probation officer.*** Keep in mind that your statement will become part of the pre-sentence investigation that the judge will read.

### *Your Right to be Heard at Sentencing*

In Article I, Section 8 of the Nevada Constitution, the Legislature is charged with making the laws that the victim of a crime, personally or through a representative, shall be:

Informed, upon written request, of the status or disposition of a criminal proceeding at any stage of the proceeding;

Present at all public hearings involving the critical stages of a criminal proceeding; and

Heard at all proceedings for the sentencing or release of a convicted person after trial.

A victim's right to be heard at the time of sentencing (any type of crime) is found in the Nevada Revised Statutes (NRS). NRS 176.015(3) provides:

***Before imposing sentence, the court shall afford the victim an opportunity to appear personally, by counsel or by a personal representative and reasonably express any views concerning the crime, the person responsible, and the impact of the crime on the victim and the need for restitution.***

Additionally, the prosecutor must give reasonable notice of the sentencing hearing to the person against whom the crime was committed; a person who was injured as a direct result of the crime; the surviving spouse, parents or children of a person who was killed as a direct result of the crime; and any other relative or victim who requests in writing to be notified of the hearing. NRS 176.015(4).

### ***Restitution***

The court can order restitution against a defendant who is found guilty. Acceptable restitution includes direct costs such as medical bills, property damage and stolen property. In order for the court to order the defendant to make restitution, you must provide your prosecutor with copies of your bills and/or estimates for replacement or repair. If the crime is a gross misdemeanor or felony, you should also provide those documents to the parole and probation officer who is doing the pre-sentence report.

The court cannot order restitution for such things as pain and suffering or future loss of earnings. If you have insurance that has paid your bills or damages, the only costs you can recover are your deductibles. If your case involves a large amount of damages, you may want to consider contacting a private attorney and filing a lawsuit against the defendant in civil court.

Unfortunately, many defendants do not have the financial means to make restitution. Do not be surprised if the defendant fails to comply with a court order to make restitution. If a defendant fails to make restitution that was a condition of his/her probation, that failure can be considered grounds for revocation of the probation.

### ***Other Compensation***

The State of Nevada has a program to compensate victims of violent crime. The compensation may be awarded for medical bills, psychological counseling, lost wages, funeral and burial expenses. You **cannot** be compensated for property loss, legal fees, phone bills, living expenses or pain and suffering. For an application form, contact the Victim of Crimes Program; 4600 Kietzke Lane I-205, Reno, NV 89502-5000; telephone (775) 688-2900; or 555 East Washington Ave. Suite 3200, Las Vegas, NV 89101; telephone (702) 486-2740.

As a victim of a sexual offense, there are other assistance programs. Counties are responsible for payment of sexual offense examinations and medical care for any physical injuries resulting from the offense within 72 hours after the victim arrives for treatment. Additionally, the county can pay up to \$1000 for counseling costs. Contact your prosecutor if you have any questions regarding these provisions. (NRS 217.290; 217.480; 449.244).

## ***Appeals***

*A defendant who is convicted of a crime has the absolute right to appeal that finding of guilt. If the defendant has been convicted of a misdemeanor, the initial appeal is to a district court judge. If the defendant has been convicted of a gross misdemeanor or felony, the initial appeal is to the Nevada Supreme Court. Keep in mind that there are several levels of appeals, and thus your case may not have final resolution for some time. Ask your prosecutor about any appeals in your case.*

## ***Other Rights***

There are other sections in the Nevada Revised Statutes that provide for victim's rights. Below, is a compilation of various chapters in the NRS that provide for some of those rights. *This is not a comprehensive list of those rights.* Please contact your prosecutor if you have any questions regarding your specific rights.

**NRS 62D.440** Provides in a case where the defendant is a juvenile that the prosecutor, if so requested, must disclose to the victim or a parent or guardian of a victim, the disposition (sentence) of the case.

**NRS 176A.630** Provides in a hearing to revoke probation and modify a defendant's sentence, that the Division of Parole and Probation must notify the victim of the proposed changes and the victim has the right to be heard at the hearing. *The victim must request, in writing to the Division of Parole and Probation, that he/she be notified.*

**NRS 178.5696** Provides that during a criminal case, the court must provide a secure waiting area for victims and witnesses. This statute also provides that a court or law enforcement agency which has custody of stolen or other personal property belonging to a victim or witness shall, *upon written request*, make available a list of the property being held in custody unless disclosure or identity of the evidence would seriously hamper the investigation. Additionally, the property must be returned when it is no longer needed for evidence.

**NRS 178.5698** Provides that, *upon written request of the victim*, the prosecutor, sheriff or chief of police shall inform the victim of:

- When the defendant is released from custody at any time before or during trial,
- The amount of bail for release of the defendant,
- Of the final disposition of the case in which he/she was directly involved.
- If the defendant has been convicted of a sexual offense or a crime of threatened or actual use of violence against the victim, the court shall provide to each victim or witness certain forms and documentation outlining rights (contact your prosecutor for specifics regarding this section).

**NRS 200.591** Provides that a court may issue a temporary or extended order for protection to a person who reasonably believes that the crime of stalking, aggravated stalking or harassment is being committed.

**NRS 209.392 & .521** Provide that, *upon written request of the victim*, the Department of Corrections shall notify the victim if the defendant becomes eligible for residential confinement, or if the defendant is released from custody or escapes.

**NRS 213.010, .040, .095** Provide that, *upon written request of the victim*, the State Board of Pardons Commissioners must notify a victim when a prisoner has applied for clemency, allow the victim to submit written statements or to be heard, and notify the victim of the disposition of the hearing.

**NRS 213.130** Provides that, *upon written request of a victim*, the State Board of Parole Commissioners, must notify a victim that a prisoner is being considered for parole and the victim must be notified of the date of the hearing and given the opportunity to testify and submit documents. Additionally, the State Board of Parole Commissioners must notify the victim of their decision on whether to grant parole.

**Note:** *As a victim, you are entitled to certain notifications if you have requested, in writing, to be notified. As part of that written request, you must provide an address where you can be contacted. If you move, you must provide notification of the new address. Your address must be kept confidential by the agency that receives your written request. Addresses for the state agencies you should notify (upon the defendant's conviction of a gross misdemeanor or felony) are provided below:*

**Nevada Department of Corrections  
Central Administrative Office  
Attn: Warrants Coordinator/Victim Notification  
P.O. Box 7011  
Carson City, NV 89702**

**Nevada Division of Parole and Probation  
Central Administrative Office  
1445 Hot Springs Road, 104 West  
Carson City, NV 89706**

**Nevada Board of Parole Commissioners  
1445 Hot Springs Road 108-B  
Carson City, NV 89711**

**Nevada Board of Pardons Commissioners  
1445 Hot Springs Road, 108-B  
Carson City, NV 89711**

## **Frequently Asked Questions and Definitions**

### **Can I drop the Charges against the Defendant?**

No. The crime has been committed against the state, and you are either the victim or witness. The decision on whether to proceed on the charges is given to the prosecutor, not the victim. Although you may be reluctant to proceed to court, keep in mind that it is important that a defendant be held responsible for his/her criminal conduct, or he/she may commit crimes against other people in the future. You cannot fail to appear for court, or you will face criminal charges. Express any concerns you have to your prosecutor.

### **What Is the Difference Between Probation and Parole?**

*Probation* is when a convicted defendant is not sentenced to jail or prison, but is given a suspended sentence. Probation can be revoked if the defendant does not comply with the terms of probation. If that happens, the suspended sentence is imposed and the defendant is generally sent to jail or prison.

*Parole* is when a defendant has been sentenced to prison for a felony conviction, and has served a certain amount of time that makes him eligible for parole (early release from prison). Even though a prisoner may achieve parole, he/she is still under the jurisdiction of the Department of Corrections until his/her term of sentence has expired.

### **What If the Defendant or Someone Else Threatens Me?**

Contact 911 immediately and report it. Fill out a statement about what occurred. After the law enforcement officer has taken your report, notify your prosecutor. It is against the law to threaten, harass or intimidate any witnesses.

### **Do I Have to Talk With the Defense Attorney Prior to Testifying?**

No. If the defendant, defense attorney or private investigator contacts you prior to trial and wishes to discuss the case, you are under no obligation to discuss it with them. You always have the option of telling them that you want the prosecutor to be present for any such discussions. You should always contact the prosecutor and tell them about any such contacts. If you do discuss the case without the prosecutor present, you should take notes of what you said and the questions that were asked. Anything you say can be used in the trial.

### **What If I Need an Interpreter?**

Contact your prosecutor's office and notify them that you need an interpreter. They will arrange to have one available, at no charge, for your court appearance.

## **What Is the Difference Between Criminal and Civil Courts?**

In a criminal case, a crime has been committed and the State of Nevada or a city is the plaintiff. The purpose of a criminal case is to hold the defendant accountable for his/her illegal actions. Criminal courts are concerned with punishing the defendant. A defendant in a criminal case is entitled to an attorney even if he/she cannot afford one. The standard burden of proof, which must be shown before a defendant can be found guilty, is beyond a reasonable doubt.

In a civil case, the plaintiff is a private party, who files a civil lawsuit against someone who has injured the plaintiff in some fashion. A defendant in a civil case is not entitled to representation if they cannot afford an attorney. The standard of proof which must be shown before a defendant can be held liable is a preponderance of the evidence, which is a lesser standard than that required for criminal cases.

## **Do I Need to Hire My Own Attorney?**

It depends. In a criminal case, the prosecutor is given the sole responsibility for handling the case. A private attorney cannot prosecute a criminal case. The prosecutor represents the state or city against which a crime has been committed.

If the case is a simple misdemeanor and the damages are minimal, you probably do not need to hire a private attorney to advise you. However, if you suffered extensive losses, you may want to consult with a private attorney regarding the possibility of filing a civil lawsuit against the defendant.

## **Are There Any Special Rules for Children Who Testify?**

Yes. NRS 174.519 provides that when the victim or witness is younger than 16, the prosecutor shall request that the court, in its discretion, consider the effect a delay in the beginning of a trial would have on the child in setting the trial date.

NRS 178.571 provides that if the victim or witness is a minor, or if the crime involves sexual assault, then an attendant may be present during the preliminary hearing and trial. The attendant may sit next to the minor, or may stand in a strategic location.

## **Can I Testify Without the Defendant Being Present?**

No. The defendant has an absolute right guaranteed by the United States Constitution to “face his accusers.” However, the defendant does not have the right to attempt to intimidate you while you are testifying. Notify your prosecutor if the defendant is trying to intimidate you while testifying.

### **Am I Entitled to a Witness Fee for Testifying?**

Yes. NRS 178.5696(3) provides that the prosecutor must inform each witness of the fee to which they are entitled for testifying and how to obtain that fee.

### **As a Victim of Domestic Violence, Is There any Additional Protection For Me?**

Yes. A court may order a temporary or extended order for protection for a victim of domestic violence, stalking or harassment. Contact your prosecutor and/or court for more information on how to obtain such an order.

### **Can I Fire My Prosecutor and Get Someone Else to Prosecute the Defendant?**

No. Remember that the prosecutor represents the state or the city, and is either elected or appointed to fulfill that function. If you have concerns about your prosecutor, contact the district or city attorney and notify them of your concerns.

# CRIME VICTIMS' BILL OF RIGHTS

1. *You have the right to know the status of the case in which you are involved.*
2. *You have the right to be free from intimidation or dissuasion.*
3. *You have the right to know when your impounded property can be released.*
4. *You have the right to receive a witness fee for lawful obedience to a subpoena.*
5. *You have the right to understand the existing victim compensation laws and receive compensation if applicable.*
6. *You have the right to a secure waiting area, which is not available to the defendant or his relatives, when you are at court.*
7. *You have the right to know when the defendant is being released from custody before or during trial (upon written request)*
8. *You have the right to know when the defendant is being released from prison (upon written request).*