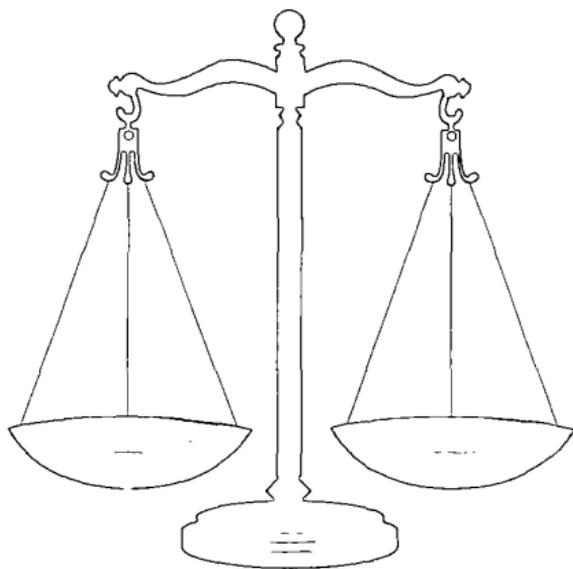


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An Informational Guide to

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191668



Virginia's Crime  
Victim and Witness  
Rights Act

Commonwealth of Virginia

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Department of Criminal Justice Services  
Victims Services Section  
November 1997



## Thank You

A special thank you is extended to the Victims' Rights Implementation Advisory Committee and Subcommittee members, crime victims, prosecutors, law enforcement and court officials, victim service providers, corrections staff, Office of the Attorney General, Commonwealth's Attorneys' Services Council, the Victim Services Section of the Department of Corrections and the Virginia Criminal Injuries Compensation Fund for their assistance with this brochure.

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## Introduction

This brochure has been prepared to assist crime victims and witnesses. Its purpose is to give you information about the rights and responsibilities given to you under the "Crime Victim and Witness Rights Act" (usually referred to as the Victims' Bill of Rights) and related laws. It also provides basic information about the criminal justice process and definitions to help you in understanding the criminal justice process. The **words in blue** are explained more fully starting on **page 33**.

## Who Can Help



There may be programs and services available in your area designed to assist victims, their families and others in dealing with the victimization, and the complexities of the criminal justice system.

You can find out about these services by contacting the office of the local **commonwealth's attorney (prosecutor)** or the **victim/witness program**, sexual assault, domestic violence or child abuse programs in your area. Telephone numbers for these programs may be in your phone book.

If you have been the victim of a crime, it may help to talk with a knowledgeable and understanding person about your feelings. Although many victims say that it is difficult to

talk about their feelings, most find that they feel better if they have the opportunity to freely and confidentially discuss any problems or emotions they are experiencing.

Reach out to someone with whom you feel comfortable. The most important step in recovering from a crime is to talk to someone you trust.

It is normal to have conflicting feelings and thoughts. As a result of being victimized, you may go through many emotions such as fear, confusion, guilt, anger, frustration, irritability, helplessness, low self-esteem or depression. You may also have difficulties with concentration and trusting others.

These reactions are normal. These feelings will subside over time. Slowly, you will be able to resume a routine that is normal to you.

The support you receive from your loved ones, your friends and the community will be important in helping you to readjust. People close to you may also be having difficulty and may need to vent their feelings. If you know of ways they can help, let them know. It may be of mutual benefit.

## Definition of Victim

The Crime Victim and Witness Rights Act and most other victims' rights laws recognize the following individuals as crime "victims":

Anyone suffering physical, emotional or financial harm as a direct result of a **felony** or certain **misdemeanor crimes**.

The definition of victim includes spouses, children, parents and guardians of certain victims.

## Virginia's Crime Victim and Witness Rights Act

The "Crime Victim and Witness Rights Act" (usually referred to as the Victims' Bill of Rights) was made law by the Virginia General Assembly in 1995. The purpose of this law is to ensure that victims and witnesses of crime:

- Are informed of their rights
- Are treated with dignity, respect, and sensitivity and that their privacy is protected where the law allows
- Receive authorized services
- Have opportunities to make the courts aware of the full impact of the crime
- Have the opportunity to be heard at critical stages of the criminal justice process.

The law provides that:

- Victims have the right to remain in the courtroom during **trial** during all hearings which the **defendant** may attend, unless the judge has determined that the victim is a **material witness**.

## Rights Accorded to Crime Victims and Witnesses

- When practicable, prosecutors must give victims, or any adults chosen by a victim under the age of eighteen, advance notice of judicial proceedings (such as **bail or bond hearings, preliminary hearings** and trial dates) and any changes in court dates. Victims must have provided their names, *current* addresses and telephone numbers in writing, ahead of time, in order to receive this information.
  
- Victims must be informed of financial assistance and social services available, including crime victims' compensation (Criminal Injuries Compensation Fund).
  
- In cases tried in Circuit Court, victims may present a **Victim Impact Statement** which explains to the judge how the crime(s) affected them.
  
- Defendants convicted of crimes in violation of any provision of Title 18.2 (the criminal codes) except DUI, must be ordered to make at least partial **restitution** for property damage or loss or actual medical expenses incurred by victims.
  
- Sheriffs, jail superintendents and the Department of Corrections must notify victims, or persons designated in writing by victims, of the release, transfer, escape or change of name of a prisoner, if victims have requested notice in writing and have provided their names, *current* addresses and telephone numbers in writing.

This brochure is arranged according to the five areas of victims' rights which are established by the Victims' Bill of Rights. They are:

- Victim and Witness Protection
- Financial Assistance
- Notifications
- Victim Input
- Courtroom Assistance



## Your Responsibilities as a Victim or Witness

As a victim or witness of crime, you have certain rights under the Victims' Bill of Rights. There are specific steps you need to take in order to receive these rights. It is important that you read each of the sections relating to the five areas of the Victims' Bill of Rights to determine what steps you need to take. These sections begin on page 9 and end on page 21.

## Victim and Witness Protection

A **protective order** is an order issued by certain criminal justice personnel for the purpose of protecting a victim from abuse. These orders prohibit the accused person from some or all contact with you. A protective order is *not* a criminal **warrant**. The accused person will not go to jail *unless* he or she violates the conditions of the order. A protective order may be requested if you have reason to fear an assault by a family or household member. A family or household member is your spouse, former spouse, someone with whom you have a child, or other household member. (See complete definition on page 34).

## Protective Orders—Family & Household Members

The judge usually issues protective orders. However, an emergency protective order can be obtained through a law enforcement officer responding to the scene or through a magistrate.

To obtain a protective order, contact the Court Service Unit of the Juvenile and Domestic Relations Court in your area.

## **Protection- Stalking**

If you are the victim of stalking and the accused person has been charged with stalking, the court can issue an order prohibiting the person from contact with you.

Stalking is conduct, occurring more than once, which is directed at another person with the intent to place, or the knowledge that the conduct places, that other person in reasonable fear of death, criminal sexual assault, or bodily injury to that other person or to that other person's family or household member.

Some examples of stalking are: following a victim to his/her home, school, place of employment, business, or any other location; repeated telephone calls; sitting outside the victim's home or business, etc.

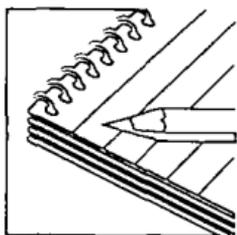
## **Separate Waiting Areas**



Some courthouses have separate waiting areas for victims and witnesses in order to provide them privacy and protection from intimidation. If you are worried about having to wait in an area where the defendant or the defense witnesses may be, contact either your local victim/witness program, the prosecutor's office, or the clerk of court or bailiff at the courthouse, to see if a waiting area is available to you.

## Financial Assistance

### Compensation for Witnesses



Victims and witnesses traveling from out of town may be entitled to payment for mileage, tolls, meals, and lodging for each day's attendance. Keep a record of your mileage, receipts for tolls, meals, and lodging, and ask the victim/witness program staff, prosecutor, or the clerk of court whether and how you can be reimbursed for your expenses.

### Property Return

To assist in the investigation and prosecution of certain crimes, law enforcement authorities may hold your property as **evidence**. The law allows them to photograph and return certain evidence to you before the trial. However, law enforcement may hold your property until after the trial and any appeals.

If a law enforcement agency is holding your property as evidence, contact the investigating officer and ask whether the property can be returned to you. The prosecutor and/or victim/witness program staff may be able to assist you in the return of your property.

## Restitution



If you are a crime victim, the defendant may be ordered to repay you under certain circumstances, at least partially, for your losses. The repayment ordered may also include interest. This repayment is called restitution. Court ordered restitution is *no guarantee* of repayment by the defendant.

It is important that you ask the prosecutor or victim/witness program staff, prior to your first court appearance, about restitution. The prosecutor and/or victim/witness program staff can assist you in seeking and securing restitution by providing information about local procedures, and referrals to appropriate personnel. There may also be civil remedies available to you.

The court will determine the amount of restitution, if any. It is important that you make an itemized record of the value or cost of any property stolen or damaged, and any medical expenses resulting from the crime. Be sure to identify the amount of any insurance payments you have received or expect to receive. If you are uncertain of the value or cost of any property stolen or damaged, it is essential that you obtain estimates of value or cost. Restitution can also be requested as part of your Victim Impact Statement submitted prior to **sentencing**. For more information about Victim Impact Statements see page 17.

## Victims' Compensation

If you are the victim of a crime in Virginia and if you were physically injured during the crime, or injured trying to stop a crime or an attempted crime, or injured trying to catch a person who committed a crime in your presence, or you are the surviving spouse, parent, grandparent, sibling, or child of a victim who was killed because of a crime or attempting to stop a crime, then you may be compensated for certain unreimbursed losses such as:

- Loss of earnings
- Out of pocket medical expenses
- Funeral expenses up to \$2,000
- Expenses attributable to pregnancy resulting from forcible rape
- Other expenses resulting from your injury or from the death of a crime victim

You must:

- Report the crime to the police or other law enforcement agency within 120 hours (or show good cause for not doing so);
- Cooperate with law enforcement agencies and the courts;
- File a compensation claim within 180 days from the date of the crime (or show good cause for not doing so); and

- File an application for payment of medical expenses through State and Local Hospitalization (SLH) within 30 days of release from the hospital, if those expenses are not covered by health insurance.

The prosecutor and/or victim/witness program staff can advise you on how to apply for victims' compensation and, if necessary, assist you with the application. With your signed authorization, the victim/witness program staff may contact staff of the Criminal Injuries Compensation Fund to follow up on your claim.

For more information or for an application, call the Criminal Injuries Compensation Fund.

Richmond Area: (804) 367-8686

Toll-Free Statewide: 1-800-552-4007

Or write:

Criminal Injuries Compensation Fund  
P.O. Box 5423  
Richmond, VA 23220

## Notifications

### Employer Intercession

If you are subpoenaed to court and you give reasonable notice at your workplace, your employer may not fire you, discipline you, or require you to use vacation or sick leave in order to go to court. However, your employer is not required to pay you for your time in court.

## Notifications

This section tells you how to obtain notifications as outlined in the Victims' Bill of Rights. You are eligible for these notifications if you are a victim or if you have been chosen by a victim under the age of eighteen to receive notices. You may be required to provide additional information (e.g. prisoner's name, date of sentencing, type of offense) when requesting notification. You can get further information and assistance about your rights to notification from your local victim/witness program or Commonwealth's Attorney's Office.

### Commonwealth's Attorney's Office

You must give the *Commonwealth's Attorney's Office* your *current* name, address, and telephone number, in writing, if you wish to be notified in advance of the scheduled court dates for:

- preliminary hearings
- trials
- sentencing hearings

You have the right to be notified in advance, when practicable, of bond, preliminary hearings, trials, sentencing hearings, and other significant proceedings in your case.

Sheriff, Jail  
Superintendent  
or Department  
of Corrections

You must give the *sheriff, jail superintendent or Department of Corrections* your *current* name, address, and telephone number, in writing, if you wish to be notified of the following events relating to the custody of the defendant:

- escape from jail, prison, etc.
- transfer from one jail or prison to another
- legal change of name
- release (including work release) from jail, prison, etc.
- discharge from custody
- placement on parole

You have the right to be notified of an escape, transfer, change of name, release (including work release), discharge, parole (if applicable) of a prisoner.

Attorney  
General's  
Office

You must give the *Attorney General's Office* (see inside back cover, Important Telephone Numbers in Virginia) your *current* name, address, and telephone number, in writing, if you wish to be notified if and when:

- an appeal to the Virginia Court of Appeals is granted
- a habeas corpus petition has been filed

(If possible, include the offender's full name and the case number.)

You have the right to be notified when an appeal is granted or habeas corpus petition is filed as well as the outcome of those proceedings.

## **Victim Input**

### **Right to Remain in Courtroom**

Victims have the right to remain in the courtroom during all court proceedings (bail or bond hearings, preliminary hearings, trials, etc.) which the defendant has a right to attend, unless the judge has determined that the victim is a material witness. If the prosecutor or defense attorney informs the judge that the victim will be called to testify as a material witness, then the victim will not be allowed to stay in the courtroom during the proceeding. Additionally, in any case involving a victim who is under the age of eighteen, the court may permit an adult chosen by the victim to remain in the courtroom as a support person for the victim, if that person is not a material witness.

### **Victim Impact Statement**

In certain cases and under specific circumstances, after the defendant is found guilty, the judge may consider a Victim Impact Statement(s) in determining the offender's sentence. The Victim Impact Statement gives the victim the opportunity to tell the court, in writing, the impact of the crime(s). This may include any financial losses, any physical or emotional injuries and any major life changes that resulted from the crime(s). Ask the victim/witness program staff or prosecutor for more information.

### **Victim Input**

Parole was abolished in Virginia for any offender who commits a felony crime on or after January 1, 1995. Such an offender is not eligible for

parole and will serve at least 85 percent of his or her sentence. However, most offenders who committed crimes before January 1, 1995, are eligible to be considered for parole.

The Virginia Parole Board determines whether or not such offenders should be granted parole. Victims and family members of victims may have input into the parole decision-making process by writing a letter to the Parole Board and/or by making an appointment to meet with a Parole Board member.

Upon written request, a crime victim who provides his or her *current* name, address and telephone number, can be notified of the following:

- the offender's parole interview schedule;
- the Parole Board's decision in the case; and
- the release date of the offender, conditions of parole supervision, and the address of the offender upon release.

You may obtain more information about the Victim Input Program and the parole process from your local victim/witness program, or by contacting:

Department of Corrections  
Victim Services Section  
6900 Atmore Drive  
Richmond, VA 23225  
(804) 674-3243

## Courtroom Assistance

### Closed-Circuit Television

To reduce the trauma experienced by child victims when they must testify, the law permits the use of closed-circuit television in certain criminal proceedings, including preliminary hearings, involving alleged offenses against children aged 12 or younger in kidnapping, criminal sexual assault or family offenses. The judge *may* approve the use of closed-circuit television, at the request of the prosecutor or the defendant's lawyer. You may wish to speak to the prosecutor to find out if closed-circuit television can be used in your case.

### Closed Preliminary Hearing

In cases of sexual assault, preliminary hearings *may* be closed to the public. You may wish to speak to the prosecutor to find out if your preliminary hearing can be closed. The prosecutor or the defendant's lawyer may make a request to the court for a closed preliminary hearing. However, **trials** are open to the public.

The judge may **exclude** from the courtroom all persons except (1) officers of the court and (2) persons who would be supportive of the victim or defendant without impairing the conduct of a fair hearing.

## Confidentiality

A crime victim has the right to request that certain information remain confidential. A crime victim may request that courts, law enforcement agencies, prosecutors, and the Department of Corrections not disclose his or her home address, telephone number, or place of employment. A victim also may request that this personal information not be disclosed about members of his or her family. To request confidentiality, the victim must file a **Request for Confidentiality by Crime Victim Form (DC-301)** with the **magistrate**, court, commonwealth's attorney, or law enforcement agency in the locality where the crime occurred. Forms may be obtained from the magistrate or clerk of court. A victim may file a request for confidentiality at any stage of the criminal proceeding. Prior to the filing of the request form, the public may have access to the above information.

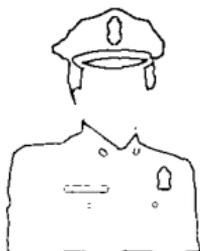
The prosecutor or defense attorney may request that a victim or witness not be required to give their *current* home or work address or telephone number when testifying in court, if this information is not important to the prosecution of the case. You may wish to speak to the prosecutor to find out if you will be required to give this information.

**Interpreters**

If you cannot speak English or are hearing impaired, a court approved interpreter may be appointed to assist you during the criminal justice process at no cost to you. If, however, you wish to obtain your own interpreter you may do so at your own expense. This interpreter must be approved by the presiding judge.

## The Criminal Justice Process

### Reporting to Law Enforcement



When you report the crime to the police department or sheriff's office, try to be specific and give every detail about the crime that you can remember. It is important to be truthful, even about facts that may be embarrassing, so that the law enforcement officers can conduct the best investigation possible.

If you remember something at a later date, call the officer immediately and report it. The more information the officer has—no matter how unimportant it may seem—the greater the chances of catching the criminal.

A law enforcement officer may not be involved in the investigation of some offenses. If a law enforcement officer does not see or report the crime, you may request a warrant yourself. If the offender is an adult, contact the magistrate's office. If the offender is a juvenile or a family member, contact the Juvenile Court Service Unit.

### The Law Enforcement Investigation

Find out the name and phone number of the police officer or the deputy sheriff who answers your call for help and the number assigned to your case. Write down the information so that it will be easier to check on the progress of the case. If you call about the case and you have this information handy, any officer should be able to answer your questions or refer you to someone who can.

## Seeking A Warrant

After the law enforcement investigation, you may be asked to go with the officer to the magistrate's office, or you may be advised to go on your own to file a complaint seeking a warrant of arrest.

At the magistrate's office you may be asked to:

- give an oral statement under oath or affirmation, describing the alleged offense, and/or
- fill out a written criminal complaint describing the alleged offense.

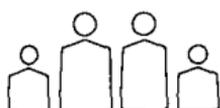
The magistrate can issue a warrant or deny your request, based on your statements and other information concerning the case, which may be available to the magistrate.

## Keeping A Record

You may find it helpful to keep a written account of everything that you remember about the crime and about what happened afterwards. Try to write the information down as soon as possible after the crime. You can use this to refresh your memory in the time that passes between the crime and any court dates.

Be sure to read carefully all documents, papers or **subpoenas** that you receive about the case. If you have any questions, call the victim/witness program in your area, the police department or sheriff's office, or the local prosecutor's office for more information.

## Identifying the Suspect



You may be called by the investigating law enforcement agency to help identify a suspect. If you are, it may be helpful to take along a friend or family member for support.

You may be asked to:

- view a lineup (a group of people) or photographs of people who have physical traits similar to those you described about the offender;
- help make a police sketch of the suspect based on your description and memory; and/or
- visit the crime scene to reconstruct what happened.

## After the Arrest

After a suspect in a felony case is arrested, you may be contacted by the prosecutor who is handling the case. If not, be sure to call him or her a few days before the preliminary hearing for information about your role in the case. In misdemeanor cases, contact your commonwealth's attorney's office to see who will prosecute your case.

As a victim in a criminal case, you will not need to hire a lawyer. The prosecutor is the lawyer who represents the state and presents evidence to attempt to convict the suspect in court. You may find it helpful to record the prosecutor's name, telephone number and the file number of the case.

You may be contacted by a defense attorney or investigator for the defense. You may wish to contact the prosecutor if this happens or if you are concerned about speaking to the defense attorney or investigator.

## Pretrial Hearings

As a victim of crime, your knowledge of what happened may be used as evidence in a case against the suspect. A person arrested for a felony usually has a right to a preliminary hearing. During this hearing, which is held in the General District Court or Juvenile and Domestic Relations Court, guilt or innocence is not determined. The purpose of this hearing is to decide if there is "**probable cause**" to believe that the suspect committed the crime. If the judge finds that there is probable cause, the case is sent to the grand jury.

If the grand jury also finds probable cause, it issues an **indictment**. The indictment is the formal charge upon which the defendant will be tried.

The prosecutor in charge of your case usually determines the need for your testimony at these hearings as well as at trial. He or she will let you know if your testimony is needed.

## Trial



This is when the defendant's guilt or innocence is determined by either a judge or **jury**. Misdemeanor trials are heard in General District Court or Juvenile and Domestic Relations Court by a judge and felony trials are heard in Circuit Court by a judge or jury.

If the defendant pleads guilty, you usually will not have to testify. You may have to testify if the defendant pleads not guilty. If you are going to be a witness at the trial, you may be asked to leave the courtroom until it is time for you to testify. The judge will tell you if you must leave the courtroom. While testifying, you may be asked questions about your knowledge of the facts of the case by the prosecutor, the defense attorney or the judge.

### Who You Will See in Court

In the courtroom you may see the following key persons:

- The *judge* who hears the evidence and determines the case according to the law and the evidence brought before him or her
- The *clerk* who handles the papers involved with the case, records the judge's actions, and oversees the collection of fines that may be ordered
- The *bailiff*, or deputy sheriff, who is the officer in charge of courtroom security
- The *commonwealth's attorney* or *prosecutor*, who presents the case for the state
- The *jury*, a group of people who listen to evidence and decide the case
- The *defense attorney*, who represents the person charged with the crime(s)

- The *defendant*, the person charged with the crime
- The *victim advocate*. This person could be a victim/witness staff person, domestic violence shelter worker, sexual assault crisis worker, or other support person from a local advocacy agency
- Other people may be in court, including the *press*

### **When to Appear in Court**

You will receive a court paper called a subpoena which will tell you the date and time to appear in court and in which court to appear. If you have any questions about the date and time, call the prosecutor who is handling your case, the victim/witness program, or the clerk of the court. Bring the subpoena with you to court.

Tell the prosecutor's office and the victim/witness program of any changes in your address or phone number so that they will be able to contact you about court dates, your testimony or any matter affecting the case.

## Continuances

Frequently, cases are not heard when originally scheduled. This can happen when one party requests a postponement and the judge agrees and orders a **continuance**. The continuance is simply rescheduling the case to another day. If the judge continues your case, be aware that you will have to return on that new date.

## The Presentence Report

If the defendant is found guilty, another court date may be set for sentencing. Judges may ask for a **presentence report** to use in sentencing because it will give a history of the defendant's past criminal record, employment and other factors that a judge may find important in deciding the sentence. A Victim Impact Statement or restitution statement may be included in the presentence report.

## Sentencing

Victims may want to be notified of the defendant's sentencing date so that they can appear. Tell the prosecutor or victim/witness staff if you want to attend so that you will be notified of the court date.

Sentencing conditions can include ordering the offender not to contact you. If you are interested in a specific condition, tell the prosecutor or judge what you have in mind. Remember that the judge makes the final decision.

## Appeals

An appeal from the Circuit Court is a request from the defendant or the defendant's attorney for a court to review the case to determine if all the defendant's rights were observed and that procedures and laws were followed.

After the defendant has been convicted of a misdemeanor in the General District Court or Juvenile and Domestic Relations Court, he or she has the right to appeal the **conviction** or sentence to the Circuit Court. A new trial will take place in the Circuit Court. The defendant  have the right to a jury trial. After the defendant has been convicted of a felony or misdemeanor in Circuit Court, he or she has the right to appeal the conviction or sentence to the Court of Appeals of Virginia. The prosecutor can keep you informed of appeals by the defendant should you request that information.

If you provide the Attorney General's Office (see inside back cover, Important Addresses and Telephone Numbers, and the section on notifications beginning on page 15) with your *current* name, address, and telephone number, in writing, and request to be notified, you have the right to be notified when an appeal is granted beyond the Circuit Court level or habeas corpus petition is filed as well as the outcome of  those proceedings.

## Tips for Testifying

1. Always tell the truth. Tell exactly what you recall and what you know. If you do not know the answer, say "I don't know". *DO NOT GUESS OR SPECULATE.*
2. Before you testify, try to picture the scene, the objects there and what happened as best you can. Don't try to memorize what you are going to say.
3. Dress appropriately. Neat, clean, conservative and comfortable clothes are suggested.
4. Listen carefully to the question you are asked. Take your time and think about your answer. If you do not understand a question, ask to have it rephrased or repeated.
5. Speak clearly and address your answers to the judge or the jury hearing the case. They are naturally interested in what you have to say and in what happened to you.
6. Answer only the questions asked and then stop. Don't volunteer information.
7. If the question requires a "yes" or "no" answer, answer "yes" or "no" unless your answer cannot be fully understood without an explanation.
8. Be polite, firm and clear in your answers, even if the questions are hostile.
9. Stop talking if an objection is made by one of the attorneys or if the judge interrupts. You will be told if you can finish your answer by the judge or one of the attorneys. If you have forgotten the question, ask to have it repeated.

10. If you are asked whether you have talked about the case with anyone, answer truthfully. As a victim you probably have spoken to the police, the prosecutor, family and friends. The court is interested in what you know and how you know it.
11. Be quiet in and around the courtroom. Talking about the case around jurors or other witnesses may cause a mistrial.
12. It may be helpful to reread these suggestions several times before your court date so you will feel more comfortable in court. Remember that if you tell the judge or the jury exactly what you know, you will do fine.

## Glossary

**Acquittal:** a verdict of not guilty in a criminal case.

**Arraignment:** a court proceeding in which a suspect is formally accused of a crime and enters a plea.

**Bail/Bond:** an amount of money or property sometimes required by a judge or magistrate to be paid to the court by the defendant to insure that he or she will appear for trial. If he or she does not appear, the money may be forfeited to the court.

**Bail Hearing:** a hearing in which a judicial officer (judge, magistrate, or clerk of court) determines whether the defendant should be released from custody pending trial. The judicial officer also determines the terms and the conditions of release.

**Capias:** a document issued by the court for the arrest of a person; issued in case of contempt, or where an indictment has been issued, or to bring in a witness who does not obey the subpoena.

**Commonwealth's Attorney:** also known as the prosecutor; a lawyer elected by the people to prosecute criminal and traffic cases; lawyer for the Commonwealth who represents the interests of the general public.

**Continuance:** postponing of a case until a later date upon request by either party or the court.

**Conviction:** court's judgment finding the defendant guilty of a crime.

**Defendant:** person who is charged with a crime.

**Defense Counsel:** lawyer for the defendant.

**Dismissal:** a finding of not guilty; or a refusal by the court to allow a case to continue to be prosecuted.

**Evidence:** statements by witnesses, documents and objects presented to the court which can be considered by the judge and/or jury in determining whether the defendant is guilty or not guilty.

**Exclusion of Witnesses (Exclude):** removal of witnesses from the courtroom.

**Family or Household Member:** Includes: spouse (regardless of whether you live together); ex-spouse (regardless of whether you live together); parents, children, stepparents and stepchildren, brothers and sisters, grandparents, grandchildren, and in-laws (if you live in the same house); cohabitants (those who live together) and those who cohabited in the past year and their children; and persons who have a child in common (even if you have never lived together).

**Felony:** a crime punishable by confinement in a penitentiary for one year or more and possibly a fine.

**Hearsay:** a statement based upon information heard from another person. It is generally not admissible as evidence in court, although there are exceptions to the rule.

**Indictment:** a formal written document presented by a grand jury which legally accuses a person of committing a crime.

**Jury:** a panel of twelve citizens (felony charge) or seven citizens (misdemeanor charge) who decide the guilt or innocence of a defendant and recommend a sentence.

**Magistrate:** a judicial officer who has the authority to set bail and to issue criminal charges based upon evidence presented by an individual or a law enforcement officer.

**Material Witness:** a witness who has firsthand knowledge about the facts of a case.

**Misdemeanor:** a crime which is less serious than a felony, and which may be punishable by a fine and/or confinement in jail for up to 12 months.

**Motion:** request by a defense attorney or prosecutor that the judge make a decision on a specific issue or point of law.

**Nolle Prosequi (nol pros):** prosecutor's decision with agreement by the court not to prosecute a case at the present time. The charge may be brought again.

**Recognizance:** the release of an arrested person on a written promise that he/she will return to court.

**Plea:** defendant's answer to a charge (guilty, not guilty, nolo contendere {no contest})

**Plea Agreement:** an agreement in which a defendant pleads guilty in exchange for a prosecutor's recommendation for a particular sentence or particular charge. The judge must approve the agreement.

**Preliminary Hearing:** hearing held before a judge in a General District Court or Juvenile and Domestic Relations Court to determine if there is probable cause that the felony crime charged was committed by the defendant. If the judge finds probable cause, the case is certified to the grand jury for indictment and trial in Circuit Court.

**Sentence Investigation/Report (PSI):** report prepared by a probation and parole officer to help the judge in deciding sentence. A victim impact statement may be included in the report.

**Probable Cause:** reasonable grounds for belief that an accused person has committed a crime.

**Probation & Parole Officer:** a sworn officer of the court who is responsible for preparing Presentence Investigation Reports and providing supervision for offenders residing in the community.

**Prosecutor:** another term for commonwealth's attorney, assistant commonwealth's attorney or deputy commonwealth's attorney.

**Protective Order:** an order issued by judge or magistrate for the purpose of protecting a family/household member from abuse.

**Restitution:** money ordered by the court to be paid back to a victim by the defendant for loss incurred as a result of the crime.

**Sentencing:** a hearing at which a judge imposes punishment on a convicted defendant.

**Show Cause:** order issued by the court for a person to show why they failed to comply with an instruction of the court.

**Subpoena:** a written, legal order telling a person to be in court at a specific time and place to give testimony.

**Supervised Probation:** a period of time during which an offender must obey certain conditions set by the court and probation and parole officer in lieu of serving the suspended portion of a jail or penitentiary sentence. The probation and parole officer monitors an offender's compliance with supervised probation and keeps the court informed.

**Trial:** process by which guilt or innocence of a defendant is determined. Can be heard by a judge or jury.

**Taken Under Advisement:** the judge withholds final disposition of the case until certain conditions set by the judge are met by the defendant.

**Verdict:** the decision a jury or judge makes at the end of a trial about whether the defendant is guilty or not.

**Victim Impact Statement (VIS):** a written statement which describes how the crime(s) has affected the victim and his/her family. This statement may be considered by the judge in deciding a sentence. If the judge orders a sentence investigation (PSI), the VIS becomes part of the PSI and is given to the defense attorney who may review it with the defendant.

**Victim/Witness Program:** program designed to provide support, answer questions, make referrals and explain the criminal justice process to victims and witnesses of crime.

**Warrant:** written, legal order authorizing a law enforcement officer to make an arrest or perform a search.





## Important Information

### Local Telephone Numbers and Agency Contacts

#### Police/Sheriff's Department:

Emergency Number \_\_\_\_\_

Responding Officer's Name \_\_\_\_\_

Detective's Name \_\_\_\_\_

Detective's Number \_\_\_\_\_

Offense Report Number \_\_\_\_\_

Date of Crime \_\_\_\_\_

Offenses \_\_\_\_\_

#### Commonwealth's Attorney's Office:

Telephone Number \_\_\_\_\_

Attorney's Name \_\_\_\_\_

File Number or Docket Number \_\_\_\_\_

#### Victim/Witness Program:

Telephone Number \_\_\_\_\_

Advocate's Name \_\_\_\_\_

## Important Telephone Numbers in Virginia

Attorney General's Office ..... (804) 371-7763  
Toll-Free ..... 1-(800)-370-0459

### Department of Corrections

Victim Services Section ..... (804) 674-3243

### Department of Criminal Justice Services

Victims Services Section ..... (804) 786-4000

### Criminal Injuries Compensation Fund

Toll-Free Statewide ..... 1-(800)-552-4007

Richmond Area ..... (804) 367-8686

## State and National Victims Services Organizations

Virginians Against Domestic Violence ..... (757) 221-0990

Virginia Family Violence & Sexual Assault Hotline . 1-(800)-838-8238

Virginians Aligned Against Sexual Assault ... (804) 979-9002

Commission on Family Violence Prevention ... (804) 692-0375

National Organization for Victim Assistance .. (202) 232-6682

National Victim Center ..... 1-(800)-394-2255

Mothers Against Drunk Driving - Virginia ..... (804) 288-3081

Toll-Free Statewide ..... 1-(800)-533-6233

This project is supported in part by Grant #97-A9526VW96 awarded to the Virginia Department of Criminal Justice Services by the Office for Victims of Crime, U.S. Department of Justice. Points of view or opinions contained in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.



## Commonwealth of Virginia

**The Department of Criminal Justice Services (DCJS)** is a state agency whose mission is to strengthen and improve the criminal justice system. Through its Victims Services Section, DCJS is developing, coordinating and funding victim/witness programs and programs which combat violence against women throughout the state. DCJS also provides victim assistance training, resource materials, and technical assistance.

This brochure was printed in March, 1997 and updated in November 1997.

To obtain additional copies,  
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