

# Victims and the Public Prosecutor

## A Victim's Journey Through the Criminal Justice System



# Integrate Crime Victims' Issues Into University and College Curricula

The project is designed to:

- Broaden college and university students' awareness of crime victims' issues and knowledge of appropriate responses.
- Increase the number and diversity of students exposed to and educated in crime victims' issues.
- Give victim issues a new level of prominence in university and college curricula.

# Resources for Students

Campus resources to list typically include:

- Counseling.
- Health services.
- College chaplain/Faith community.
- Dean of students.
- Women's centers.
- Campus police.

# Resources for Students

Local community resources to list typically include:

- Rape crisis center.
- Domestic violence shelter agency.
- State or county victim-witness office (often a part of the prosecutor's office).

# National Resource Information

National Resource Information

Student Handout

# Lecture Overview

- Introduction
- Role of the Public Prosecutor
- Role of the Victim
- Criminal Court Process
- Victim Participation and Rights
- Victim Assistance Programs
- Conclusion

# Introduction

Crime victims may not have received information about:

- The role of the public prosecutor.
- The different stages of the criminal court process.
- What is expected of them during the different stages of the court process .

# The Public Prosecutor (D.A.)

- Represents the people within his/her jurisdiction, or a specific geographic region.
- Is elected by the people of this region.
- Has a staff of assistants who are responsible for processing most of the cases.

# Primary Function of the Public Prosecutor

Prosecution of violations of the criminal law committed within his/her jurisdiction.

# Case Factors

- Seriousness of alleged offense.
- Strength of evidence available against suspect.
- Background characteristics of suspect.
- The characteristics and attitudes of the complainant or victim.

# Political Factors

- The prosecutor's own needs of seeing cases move through the office.
- Possible public reaction to the decision.
- The prosecutor's ongoing relationship with other criminal justice personnel.

# Who is the Official Complainant?

The state.....

*.....NOT the victim.*

# Best Interest of the People

- Victim and prosecutor may not agree on prosecution decisions.
- Victim has no formal control over charging decision.
- There is generally no formal avenue of appeal for the victim if the prosecutor decides not to press charges.

# Victim = Witness

A witness is a person who can provide evidence to help the prosecutor secure the conviction of the defendant.

# Testifying

A victim may not want to testify, and/or be asked to testify, if:

- Being threatened and fearing retaliation.
- Being in the country illegally and fearing deportation.
- Being engaged in activities he/she does not want to talk about publicly.

A victim who refuses to testify may be held in contempt of court.

# Research Your Own Jurisdiction

- There are 50 jurisdictions and they all have their own procedures and language/laws.
- It is critical that you research the laws and procedures in your own jurisdictions.

For the steps that are generally followed in the criminal justice process, go to:

[www.bjs.gov/content/largechart.cfm](http://www.bjs.gov/content/largechart.cfm)

# First Steps: Criminal Court Process

Although laws and procedures vary among jurisdictions, these are the most common steps:

- Step 1: Arrest Suspect
- Step 2: Book Suspect
- Step 3: Suspect is Held or Released

# First Steps: Criminal Court Process

## ■ Step 4: Initial Court Appearance

### Purpose:

- ◆ To notify the accused of the charges.
- ◆ To advise the accused of his or her right to be represented by a lawyer.
- ◆ To consider pretrial release of the accused.
- ◆ To inform the accused of his/her right to a preliminary hearing (if the offense charged is a felony).

# Misdemeanor Cases

- Step 5: Trial
  - ◆ Must prove guilt beyond reasonable doubt.
  - ◆ Alternative to trial: Plea agreement.
- Step 6: Sentencing
  - ◆ Possible sanctions: fine, imprisonment, probation.
- Step 7: Appeal
  - ◆ Defendant can appeal case to higher court.

# Felony Cases

- Step 5: Preliminary Hearing
  - ◆ Victim faces defendant and can be cross-examined by the defense.
- Step 6: Grand Jury
  - ◆ Defense not present.
- Step 7: Superior Court Arraignment
  - ◆ Enters plea of Guilty or Not Guilty.
- Step 8: Trial by Jury
- Step 9: Sentencing
- Step 10: Appeal

# Definition of “Victim”

- Each jurisdiction has its own unique criminal justice system.
- Whether a victim is entitled to a right depends on:
  - ◆ The rights defined by the jurisdiction.
  - ◆ The definition of “victim.”
- Most jurisdictions define “victim” broadly and include not only direct victims but also:
  - ◆ Survivors of homicide victims.
  - ◆ Guardians of minors.
  - ◆ Other selected representatives.

# Victim Experience

- Until recently victims were rarely informed about the court process of their case and did not have any input into prosecutorial decision making.
- The Justice for All Act of 2004 was enacted to:
  - ◆ Protect victims' rights.
  - ◆ Eliminate the backlog of DNA samples.
  - ◆ Improve and expand DNA testing capacities.

# Victims' Rights (Justice For All Act of 2004)

- The right to be reasonably protected from the accused.
- The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime, or of any release or escape of the accused.
- The right not to be excluded from any such public court proceeding, unless the court determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.

# Victims' Rights (Justice For All Act of 2004)

- The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
- The reasonable right to confer with the attorney for the Government in the case.
- The right to full and timely restitution as provided in law.
- The right to proceedings free from unreasonable delay.
- The right to be treated with fairness and with respect for the victim's dignity and privacy.

# Restorative Justice

- Non-adversarial.
- Victim, offender, and community work together to address problems generated by criminal activity.
- Goal: to restore well-being.

# Victim Assistance Programs

- Victim of Crime Act (VOCA) funding supports trained advocates who aid the victims in the criminal court process.
- Each state must allocate at least 10% of its funding to serve victims in three priority areas: domestic violence, sexual assault and child abuse.
- The money provided by VOCA funding has dramatically increased from \$41 million in 1986 to \$370 million in 2007.
- In 2008 2,453,304 victims received criminal justice support and advocacy.

# Victim Advocates

- Explain the legal processes.
- Provide updates on cases.
- Accompany victims.
- Assist with legal processes (e.g., filing restraining order).
- Link to services for various needs (e.g., emotional and physical safety).

# Conclusion

- Crime victims need to know and understand the participants in, and process of, a criminal court case.
- Prosecutors rely on victims as witnesses in their cases.
- Victims' rights legislation and assistance programs ensure victims are informed and supported through the court process and beyond.
- Providing victims with information and guiding them through the process is likely to make their experience with the court more comfortable and satisfying.