



Morgan County Prosecuting Attorney  
Debra MH McLaughlin

Directions: From Fairfax Street Entrance, Enter Main Door, turn Right through door, up the narrow staircase. Office is at top of steps. (Old Circuit Clerk's Office)

The Morgan County Prosecuting Attorney's office has a program to assist victims of crimes; full time staff is available to assist you with any questions or concerns. The office is located at: 77 Fairfax Street, Berkeley Springs, WV 25411 Tel: (304) 258-8620

Mailing Address: 77 Fairfax Street, Suite 2A  
Berkeley Springs, WV 25411

## **WEST VIRGINIA VICTIMS PROTECTION ACT BILL OF RIGHTS FOR VICTIMS**

West Virginia's only legislation for victims guides the Victim Assistance Program at the Morgan County Prosecutor's office. It is our goal to make sure victims understand their rights and attempt to insure that they are given these rights. In the West Virginia Victims Protection Act of 1984, the following guidelines are set forth:

- ! Victims are to be advised of any plea agreement with the accused.
- ! Victims have the right to make a victim impact statement, the right to appear before the judge at sentencing, and the right to make a statement as to the effect the crime had on the victim and his/her family.
- ! Victims have the right to the expedient return of property seized as evidence or used in the course of the investigation or trial.
- ! Victims have the right to notification by the prosecuting attorney of court dates and any schedule changes.
- ! Victims have the right to receive court ordered restitution from the offender for physical, psychological and economic injury or loss.

W. VA. Code 61-11A-1, et seq, (1989 Repl. Vol.)

**The Morgan County Victim Assistance Program provides the following services to victims:**

- ! **Advocates who**
  - **serve as liaisons to help communicate with all individuals involved in the case:**
  - **are available to sit in during all consultations with the Prosecuting Attorney assigned to a victims case:**
  - **are available to accompany the victim to all court proceedings**
  - **can aid victims in the recovery of financial loss. (This may involve in assisting with completion of Victims Compensation Fund Claims.)**
  - **can assist with the expedient return of property used as evidence:**
  - **can provide victim feedback to attorneys during plea negotiations.**

- **assist victims in preparing Victim Impact Statements**
- ! **Notification of hearing dates and case studies.**
- ! **Walk-in services for victims to stop by the office and ask questions. Appointments may also be scheduled to discuss the case in detail or to learn more about how the criminal justice system works. Victims can also call and receive case information**

### **INFORMATION FOR VICTIMS AND WITNESSES**

**Information.** If you have questions about your case, call the Prosecuting Attorney's office at (304) 258-8620.

**If you feel threatened.** If anyone threatens you, or if you feel that you are being harassed because you are a witness, you should immediately notify the local police agency or the Prosecuting Attorney's office. Threats must be investigated and brought to the attention of the court. If you are threatened or harassed while you are attending court proceedings, immediately notify the Prosecuting Attorney or nearest court official.

### **IT IS A CRIME TO THREATEN, INTIMIDATE, HARASS OR MISLEAD A WITNESS IN A CRIMINAL PROCEEDING.**

You may feel threatened if the defendant is released from jail pending the outcome of the charges. Most criminal defendants are released on bond pending trial, if the Court believes that the defendant will appear in court for all the hearings and for the trial. The defendant may post a money bond or a property bond as bail or, under certain circumstances, the court may simply require the defendant to promise to appear (recognizance bond). If you have any concern about the conditions of the defendant's release, discuss the situation with the Victim Advocate or Prosecuting Attorney.

**WHAT HAPPENS IN A CASE**  
**ADULT CRIMINAL JUSTICE SYSTEM OVERVIEW**

**CRIME**

**FELONY**

ARRAIGNMENT  
(Magistrate Court)

PRELIMINARY HEARING

GRAND JURY

ARRAIGNMENT  
(Circuit Court)

PRE-TRIAL

TRIAL/PLEA  
SENTENCING

APPEAL(S)

PRISON/PROBATION

PAROLE (After Prison)

**MISDEMEANOR**

ARRAIGNMENT

TRIAL

SENTENCING

APPEAL(S)

JAIL  
HOME CONFINEMENT  
COMMUNITY SERVICE  
PROBATION

Any criminal offense punishable by imprisonment for a term exceeding one year is a **felony**. Any other offense is a **misdemeanor**.

**PAROLE HEARINGS**

The parole board is mandated to notify the prosecuting attorney and the sentencing judge at least 14 days prior to an inmate's scheduled parole hearing. If you wish to be notified of the defendant's parole hearing, you should advise either the Prosecuting Attorneys Office of your desire or write to the parole board to request notification directly from them.

Parole Board  
112 California Avenue  
Charleston, West Virginia 25305  
Telephone: (304) 558-6366

If the prisoner has requested an “open” parole hearing, the victim or the victim’s family may request the opportunity to address the parole board during the hearing. This request is made to the parole board. If the prisoner has requested a “closed” hearing, no one may speak at the hearing.

The victim or family may request to be notified when the prisoner is released from custody. If this request is made to the parole board, the prisoner’s file is stamped “Notify Victim upon Release” and the victim is notified in writing by the parole board upon the prisoner’s release. It is important to assure that the parole board has your current address to assure proper notification.

If the defendant is sentenced to the Eastern Regional Jail for a misdemeanor, you may send a written request to the “ERJ” asking for notification of the defendant’s release. The Eastern Regional Jail can be contacted by writing to the following address:

Eastern Regional Jail  
88 Grapevine Road  
Martinsburg, WV 25401

### **CASES THAT DO NOT GO TO TRIAL**

Most criminal cases do not go to trial. Many times, the State and the defendant enter into a **plea bargain agreement**. There are many benefits to the State when plea agreements are reached. This includes (1) the certainty of a conviction of the defendant, (2) conservation of resources (it takes less time for attorneys, witnesses and judges), and (3) less trauma for the victim(s). Many times, one or more charges against a defendant may be dismissed in return for the defendant’s plea of guilty to one or more charges pending against him or her. In other situations, the State may agree not to seek a maximum penalty or not to pursue other charges if the defendant pleads guilty. Sometimes, the prosecuting attorney assigned to a case will permit a plea that appears favorable to a defendant because there is not sufficient proof to establish the defendant’s guilt beyond a reasonable doubt. This does not necessarily mean the prosecuting attorney does not think the defendant is guilty. It is a result of the analysis of a case from the point of view of what legal proof is available to use in court.

Cases may be dropped or dismissed from time to time. There are various reasons for the State to request dismissal of charges, including plea bargain agreements, or the fact that there is little or no admissible evidence to prove the criminal act. There may be times when a court will dismiss charges, even over the objection of the prosecuting attorney, because the court finds there was not sufficient evidence to convict the defendant.

Criminal cases, unlike civil cases, are not controlled by the victim. Once criminal charges are filed, the State technically becomes the victim and the prosecuting attorney’s duty is to represent the State. It is important for victims to remember that the duty of the prosecuting attorney is to represent the State by seeking justice. There are times when a

prosecuting attorney may feel that justice is not served by continuing a prosecution. In that case, it is the duty of the prosecuting attorney to decline to prosecute even when the victim does not agree, by the same token, judges have a duty to require the State to prove the defendant's guilt beyond a reasonable doubt. When the State has failed to do this, the judge should dismiss the case.

## **JUVENILE PROCEEDINGS**

Acts which would be criminal if committed by an adult are called acts of juvenile delinquency when committed by a juvenile under the age of eighteen. Cases against juveniles proceed through the system much like cases against adults. Yet, there are several differences in terminology. Juveniles are charged with a **juvenile petition**, which alleges an act of juvenile delinquency, instead of an arrest warrant or indictment. Juveniles are then arraigned by the **juvenile court referee/Magistrate**. Juveniles who "plead guilty" to an act of juvenile delinquency **admit** the allegations in the petition. Juveniles who "plead not guilty" **deny** the allegations in the petition. A preliminary hearing may be set for hearing before the referee/Magistrate. If the case is deemed to be provable and serious, it will be referred to a Circuit Judge, who will set an **adjudicatory hearing**, which will result in a finding that the juvenile is or is not a juvenile delinquent. Following adjudication, a **dispositional hearing** will be set. At that time, the judge will determine the appropriate disposition for the case. Dispositions may include, probation, residential placement, or counseling, as the judge determines is appropriate.

On occasion, jurisdiction for cases involving juveniles who have committed particularly serious offenses or who have a history of violence may be transferred to an adult court. This requires the filing of a petition by the prosecuting attorney and a finding by the court that the juvenile justice system cannot help the juvenile.

## **SUGGESTIONS FOR WITNESS**

**CALL AHEAD:** Victims and witnesses are encouraged to call the Prosecuting Attorney's Office the business day before a hearing is scheduled to assure that the hearing is still scheduled.

**WAITING:** It is not always easy or glamorous to be a witness in a criminal case. Frequently, cases are set at the same time or very close together, so it is not unusual that you may have to wait before you are called to testify. There may also be times when the case in which you are to testify will be **continued**, or postponed without your knowledge or after you have already waited to testify. In many cases the prosecuting attorney has no way of knowing how long you may have to wait or whether your case will be continued. It is important that you come prepared to wait and with the understanding that your case may not be resolved on the day you come to court. It is not a bad idea to bring a snack along and a book or magazine to read while you wait.

**HOW TO DRESS:** It is not important that you wear your best clothes to court as it is for you to be comfortable; however, a neat appearance makes a positive impression on those who evaluate your testimony.

**HOW TO TESTIFY:** The most important thing for you to do as a witness in any case is to **tell the truth**. The easiest way to do this is to **listen to the questions** asked of you and answer them the best you can. If you don't know, say so. If you don't understand the question, ask to have it repeated. If an attorney objects, **stop** and wait until you are instructed to testify again. Do not volunteer information. Try not to get upset or angry with either the prosecuting attorney or the defense attorney - it will not help your testimony and may prolong it. The best witnesses are witnesses who are fair. Don't try to hide anything or tell more than you know. Look at the jury or judge hearing the case and speak loudly enough for the judge, jury and attorneys to hear. When your testimony is over, don't leave the courtroom until you have been dismissed from your subpoena. **NEVER** discuss your testimony with another witness in the case who is waiting to testify.

#### RESOURCES FOR CRIME VICTIMS

Morgan County Prosecutor's Office  
258-8620

Morgan County Sheriff's Office  
258-8624

WV State Police  
258-0000

Town of Bath Police  
258-1198

Probation Department  
258-7303

Morgan County Circuit Court  
258-8554

Morgan County Magistrate Court  
258-8631

Shenandoah Women's Center  
258-1078

Legal Services  
263-8871

Department of Health and Human Resources  
267-0100

Hotline for Child Abuse  
1-800-352-6513

Emergency Crisis  
263-8954