

**MERRIMACK COUNTY
NEW HAMPSHIRE**



**VICTIM/WITNESS
INFORMATION**

Katherine D. Rogers
Merrimack County Attorney

**Victim/Witness Assistance Program
Office of the County Attorney
Four Court Street
Concord, New Hampshire 03301
(603) 228-0529
Fax (603) 226-4447
countyattorney@mcao.net**

This brochure is intended as a reference while you are involved as a victim/witness in the criminal justice system. Please have it available whenever you contact the Office of the County Attorney concerning the case.

NOTES

Please remember you should always notify the Office of the Merrimack County Attorney immediately concerning any changes in your address and/or telephone number.

INTRODUCTION

The United States and New Hampshire Constitutions afford all those accused of a crime the right to a speedy and fair trial and the right to be judged by a jury of their own peers. The prosecution has the absolute burden to prove that a person is guilty beyond a reasonable doubt. The accused has no burden to prove their innocence. Because the burden of proof is on the state, victims and witnesses are an essential element of every case. Your role in this process is crucial and absolutely necessary in order for justice to be sought.

This brochure provides a brief overview of the New Hampshire criminal justice system as well as your rights as a victim or witness of a crime. The Merrimack County Attorney's Office will make every effort to support victims and witnesses through the judicial process. Victim/Witness Coordinators will contact you to update you on matters relative to the case you are involved in on a regular basis. If you are a victim of a crime, they will seek your input about any proposed outcome for the case. It is imperative that you keep the County Attorney's Office apprised of any address or telephone number change you may have while the case you are involved in is pending. This will enable us to keep you informed.

The defense attorney or their representative may contact you to discuss your testimony prior to trial. It is your choice as to whether you wish to discuss the matter or not. You should not feel pressured, one way or the other, to speak with anyone about the case unless you are required to do so by order of the Court. In any situation, my office is ready to assist you and be with you should you choose to be interviewed.

Should you feel threatened or harassed because you are a victim or witness of a crime, please contact the County Attorney's Office or the local police department immediately. It is against the law for others to bribe or threaten witnesses to force them to testify a certain way.

The County Attorney's Office realizes that all parties to a criminal case face difficult decisions and challenges. This office stands ready to assist you any way we can. Your involvement in this process is valuable and essential to the citizens of Merrimack County. I thank you for your participation and wish you well.

Katherine D. Rogers
Merrimack County Attorney

VICTIM'S BILL OF RIGHTS

N.H.R.S.A. 21-M:8-k

- I. As used in this section:
 - (a) "Victim" means a person who suffers direct or threatened physical, emotional, psychological or financial harm as a result of the commission or the attempted commission of a crime. "Victim" also includes the immediate family of any victim who is a minor or who is incompetent, or the immediate family of a homicide victim.
 - (b) "Crime" means a violation of a penal law of this state for which the offender, upon conviction may be punished by imprisonment for more than one year or an offense expressly designated by the law to be a felony.
- II. To the extent that they can be reasonably guaranteed by the courts and by law enforcement and correctional authorities, and are not inconsistent with the constitutional or statutory rights of the accused, crime victims are entitled to the following rights:
 - a. the right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process
 - b. the right to be informed about the criminal justice process and how it progresses
 - c. the right to be free from intimidation and to be reasonably protected from the accused throughout the criminal justice process
 - d. the right to be notified of all court proceedings
 - e. the right to attend trial and all other court proceedings the accused has the right to attend
 - f. the right to confer with the prosecution and to be consulted about the disposition of the case, including plea bargaining
 - g. the right to have inconveniences associated with participation in the criminal justice process minimized
 - h. the right to be notified if presence in court is not required
 - i. the right to be informed about available resources, financial assistance, and social services
 - j. the right to restitution, as granted under RSA 651:62-67 or any other applicable state law, or victim's compensation, under RSA 21-M:8-h or any other applicable state law, for their losses
 - k. the right to be provided a secure, but not necessarily separate, waiting area during court proceedings
 - l. the right to be advised of case progress and final disposition
 - m. the right of confidentiality of the victim's address, place of employment, and other personal information

NEW HAMPSHIRE VICTIM'S ASSISTANCE COMMISSION

- n. the right to the prompt return of property when no longer needed as evidence
 - o. the right to have input in the probation pre-sentence report impact statement
 - p. the right to appear and make a written or oral victim impact statement at the sentencing of the defendant
 - q. the right to be notified of an appeal, an explanation of the appeal process, the time, place and result of the appeal, and the right to attend the appeal hearing
 - r. the right to be notified and to attend sentence review hearings and sentence reduction hearings
 - s. the right to be notified of any change of status such as prison release, permanent interstate transfer, or escape, and the date of the parole board hearing, when requested by the victim through the victim advocate
 - t. the right to address or submit a written statement for consideration by the parole board on the defendant's release and to be notified of the decision of the board, when requested by the victim through the victim advocate
- III. Nothing in this section shall be construed as creating a cause of action against the state, county or municipality, or any of their agencies, instrumentalities, or employees. Nothing in this section shall be construed as creating any cause of action or remedy or right for the criminal defendant.

As a victim of a violent crime in New Hampshire you may apply for compensation from the Victims' Assistance Commission. You can request up to \$10,000 in compensation for medical, dental, and funeral expenses, loss wages and loss of paid leave, mental health counseling costs, mileage or other "out of pocket" expenses. Property losses are not covered. You may be eligible for compensation if:

1. The crime resulted in personal injury (physical and/or mental) or death
2. You did not contribute or assist in any way to the personal injury or death
3. Your compensable expenses are/were more than \$100
4. The felony crime occurred in New Hampshire on or after 11-02-89 or the misdemeanor crime occurred in New Hampshire on or after 7-1-97
5. The crime was reported to law enforcement and you were cooperative
6. A claim for compensation was filed within one year, unless circumstances beyond your control kept you from doing so.

For more information or application call or write to:
NH VICTIM'S ASSISTANCE COMMISSION
DEPARTMENT OF JUSTICE
33 CAPITOL STREET
CONCORD, NH 03301
1-800-300-4500 or 271-1284

SUGGESTIONS TO WITNESSES

You may be required to testify under oath in depositions, hearings and/or a trial. Depositions are usually conducted outside the courtroom while hearings and the trial are conducted in a courtroom. The following suggestions apply to your sworn testimony in any of these situations.

BEFORE YOU TESTIFY

1. If you are going to testify concerning records, become familiar with them. You should know what the records contain and be able to refer to them easily if you must do so while you are on the witness stand. If you are not generally familiar with your company's procedures for making and keeping these records, find out. You may be asked to authenticate them as records made and kept in the regular course of the company business.
2. If you are going to testify concerning some event that happened months, or even years, before, try to refresh your recollection. You may want to return to the place where the event occurred. Before doing so, consult with the Victim/Witness Coordinator handling the case. Close your eyes and try to picture the exact scene. Note the location of physical objects and approximate distances. If you gave a written statement, review it several times. You may want to talk to friends or co-workers who were there. This may help you to recall details that you had forgotten, but do not try to develop a common story.

DAY YOU TESTIFY

1. Dress neatly and cleanly. Do not chew gum or candy
2. Please report at least 15 minutes before your scheduled time so that the prosecution will have the opportunity to further discuss the case with you. If you have received a subpoena, bring it with you
3. When you arrive at the courthouse, go to the County Attorney's Office to inform the Victim/Witness Coordinator of your arrival. You will be shown how to register to receive a witness fee and you will receive further instructions on.
4. Avoid any undignified behavior. Alcohol should not be taken while in the courthouse or before you testify. If you are approached by the defense requesting information about the case, you may or may not talk to them. It is your choice. Do not speak to the jurors or in their presence.
5. Please be prepared to wait. You may want to bring something to do or read to help pass the time.
6. Try to read these suggestions again before you testify. They will mean more to you the second time through

At time of trial there is frequently a SEQUESTRATION (see terms) order in effect. Once the trial has begun, speak to the prosecutor or Victim/Witness Coordinator before talking to anyone about your testimony. Remember your testimony must be truthful and state what you recall, not what somebody else told you.

WHEN YOU TESTIFY

1. When you are called to the witness stand to testify, you will be asked to swear to tell the truth, the whole truth and nothing but the truth. Say "I do" clearly so the jury can hear. Try not to be nervous. There is really no reason to be.
2. **ALWAYS TELL THE TRUTH.** Don't guess or make up an answer. In court, as in other matters, honesty is the only policy.
3. Listen carefully to each question and make certain you understand it before you start to answer. If you do not understand it, say so. Ask that the question be repeated or clarified. Don't guess or speculate.
4. There are three basic ways to answer a question (1) by relating the facts to the best of your memory; (2) by stating "I don't recall at this time", if you believe you once knew the facts but cannot now remember them or (3) by stating "I don't know", if you never knew the facts.
5. Answer questions by stating what you saw, heard or otherwise perceived. Speak in your own words. You should not give an opinion unless you are asked to do so. You should not say what somebody else saw, heard or told you unless you are asked to do so.
6. If there is a jury, talk to them directly. It is important that they hear your answers. Do not cover your mouth or face with your hands or other objects.
7. You should answer only the question asked. Do not volunteer additional information that is not requested. TAKE YOUR TIME. Know what you are saying before you say it. If you can answer with a simple "yes" or "no", do so. If you need to explain your answer, ask to do so.
8. If your answer is wrong or unclear, correct it as soon as you become aware of the error. Do not exaggerate. Remember you are sworn to tell the truth.
9. Stop instantly when the judge interrupts you, or when an attorney objects to a question. Do not try to complete your answer wait until the judge has ruled on the objection. You will be told when you can speak again.
10. The court reporter must be able to hear all your answers, so please don't nod or shake your head for yes and no answers. Also try not to use words like "yah", "yeah", "nope", and "uh-huh".
11. Always be courteous, even if the lawyer questioning you may appear discourteous. Try not to lose your temper. An angry or impolite witness may not be believed. NEVER argue with the attorneys.

COURT APPEARANCES

Often it is not possible to know in advance the number of times you will be needed in court, or the length of time that you will have to spend in court. A criminal case, depending upon the type of offense charged, may require several proceedings prior to the actual trial. Your testimony may be needed at one or more of these.

PRETRIAL MOTIONS

Attorneys will often ask the judge to make legal decisions in a criminal case prior to the actual trial. These requests are made by documents, called motions, filed with the court. Occasionally, a witness will be asked to testify at a motion hearing.

TRIAL

The trial of a person charged with committing a felony is held in Superior Court before a judge and a jury. Witnesses are required to give sworn testimony as to their personal knowledge of the incident being tried. After all evidence is presented, the jury will determine whether the defendant is guilty or not guilty. The jury verdict must be unanimous.

COURT PROCESS

VICTIM/WITNESS COORDINATOR

The Victim/Witness Coordinator will be your primary contact with the Office of the Merrimack County Attorney throughout the prosecution of the case. They are available to provide many services to you. These services include, but are not limited to:

1. Notification of the status of your case
2. Orientation of the criminal justice system and explanation of court procedures.
3. Assistance with court appearances and notification of case activity
4. Assistance in obtaining the return of property held as evidence.
5. Aid in obtaining witness fees
6. Referrals to community agencies that can assist you with specific problems
7. Assistance with school and/or employer when court dates conflict with classes or work

THE ATTORNEYS

The Merrimack County Attorney and Assistant County Attorneys are the PROSECUTION representing the people of the State of New Hampshire in proceedings against persons accused of committing crimes in Merrimack County. The burden of proving the defendant guilty beyond a reasonable doubt is on the State in all criminal proceedings.

The DEFENSE Attorney represents the defendant. He or she is sometimes a "Public Defender". In our judicial system all persons accused of a crime are entitled to have an attorney represent them, regardless of financial ability. Frequently, the defense attorneys will have an investigator who may wish to talk to you. It is your choice to do so or not to do so. Do not be pressured either way.

A GUARDIAN AD LITEM is an attorney appointed by the court to represent a minor child who is the victim in a criminal proceeding. The guardian's role is to protect the interests of the child.

THE JUDGE

A JUDGE is a court officer appointed by the governor and the executive council to administer the law in the courts of this State. The judge is charged with control of the proceedings and with decisions on questions of law.

THE JURY

The PETIT JURY in a criminal case consists of 12 to 14 people who reside in Merrimack County. The jury swears to weigh the evidence

presented to them in court and give a decision in accordance with the facts and the law.

SENTENCING

SENTENCE REVIEW HEARINGS

After a guilty conviction at the sentencing hearing the defendant is informed orally and in writing of his/her right to apply for a sentence review. This is when the defendant "contests" the sentence imposed by the Superior Court. The defendant has 30 days in which to file this application. If a request for a sentence review is made, a hearing is scheduled before the Sentence Review Division at the New Hampshire State Prison. The Division is a board of three Superior Court Justices that review such applications, you will be notified of the date and time of the hearing, you are not required to be present. At the hearing the Board may do any of the following:

1. They may decrease the sentence imposed by the judge
2. They may decide the sentence should remain the same
3. They may increase the sentence imposed by the judge

through community-based supervision of court ordered conditions of release

SENTENCE REDUCTION HEARINGS

Any defendant sentenced to the State Prison has the right to petition the court to have his/her sentence reduced. If the crime occurred BEFORE January 1, 1993 they may petition the court every 2 years; if the crime occurred BETWEEN January 1, 1993 and July 22, 1994 they may petition every 4 years; and if the crime occurred AFTER July 22, 1994 they must serve 2/3 of their minimum sentence or 4 years which ever is **greater** before filing a petition. If the petition is accepted by the court a hearing is scheduled, you are not required to be present.

ALTERNATIVE SENTENCING PROGRAMS

Merrimack County is actively involved in pursuing Alternative Sentencing Programs. These programs can be in addition to incarceration or a substitution for incarceration. The programs attempt to address the defendant's rehabilitation through intensive supervision combined with an educational curriculum created specifically for the defendant. If the defendant becomes a candidate for any one of the programs the Victim/Witness Coordinator will notify the victim and provide a description of that program.

PRETRIAL SERVICES PROGRAM

The Pretrial Services Program is designed to provide the courts with accurate and current background information on the defendant. This enables judicial officers to make more informed decisions regarding pretrial release. The Program is designed to protect the public and to assure the defendant appears at all scheduled court dates. This is made possible

TERMS

ACQUITTAL: A judgment of a court, based on the decision of either a jury or a judge, that the accused is not guilty of the crime with which they are charged. The judgment is based upon all evidence admitted at trial.

APPEAL: A request to a higher court for review of the lower court trial.

ARRAIGNMENT: During this procedure the defendant will (1) be notified of the charge(s) (2) plead guilty or not guilty (3) have an attorney appointed if he/she can not afford one (4) have bail established.

ARREST: To take a person suspected of committing a crime into legal custody for the purpose of charging them with a specific crime.

BAIL: Money or property in an amount determined by a judge and posted with the clerk of the court as security to insure that the defendant appears in court at specific dates and times and complies with specific conditions of release set by the court. Bail is NOT for punishment. If you wish to have input on terms and conditions of bail, please contact the Victim/Witness Coordinator.

CONTINUANCE: For many reasons, it may become necessary to postpone a trial or other proceeding. This is known as a continuance. If there is a continuance, you will be notified of the new date. In the event we are unable to contact you, it is advisable that prior to all

scheduled appearances you contact the Victim/Witness Coordinator.

CONVICTION: A finding of guilty beyond a reasonable doubt by the court based upon all evidence admitted at trial.

DEPOSITION: New Hampshire law gives a defense attorney the right to take a formal sworn statement from witnesses in criminal cases prior to trial. This process enables the defense to obtain information about the incident. Since the statement is given under oath it may be compared to your other testimony. Prior to the deposition, take time to think about the incident and review prior statements so that your memory will be as clear as possible.

DISMISSAL: A decision by a judge to end the prosecution of a case without deciding whether the defendant is guilty or not guilty. A defendant is discharged as a result of a dismissal.

DISPOSITION: The official outcome of a case.

EVIDENCE: Anything presented at a trial through witnesses, records, documents, etc. to assist the jury in finding the facts of the case. The admissibility of evidence is determined by the court.

FELONY: A crime for which the punishment could be incarceration for more than one year at the state prison.

GRAND JURY: The Grand Jury is a panel of between 12 and 23 people who determine whether there is enough evidence to "indict" (formally charge) the defendant. The Merrimack County Attorney's Office and the investigating Law Enforcement agency

presents evidence to the Grand Jury. The victim can not be present, this proceeding is confidential.

HEARSAY: Testimony based on what the witness has heard someone else say, rather than what he/she has personally experienced.

IMPEACHMENT OF A WITNESS: An attack on the truthfulness of a witness' testimony.

INDICTMENT: A formal written accusation, made by the grand jury and filed with the court, alleging that a specific person has committed a specific felony offense.

MISDEMEANOR: A crime for which the punishment could be incarceration for less than a year at a county house of correction.

MISTRIAL: A trial, which has been ended prior to a verdict. The judge may declare a mistrial because of some extraordinary event occurring during the trial.

MOTION: A formal method by which the State or the defendant asks the court to make a decision on a specific legal issue in the case.

NOLLE PROSEQUI (NULL PROSS): When the state dismisses a case. There may be many reasons that a case is "null prossed". If a Nolle Prosequi is entered in a case in which you are involved, you are entitled to an explanation.

OVERRULED: The court's denial of an objection raised at trial. If overruled, the evidence objected to will be admitted for the jury's consideration.

PERJURY: Criminal offense for making material false statement under oath.

PLEA NEGOTIATION: Many criminal cases are settled without a trial by an agreement between the State and the defendant which results in the defendant entering a plea of guilty. Such an agreement is subject to approval by the court.

PRESENTENCE INVESTIGATION (PSI): Upon a guilty plea or conviction a probation officer may conduct an investigation of the defendant's background and may also contact the victim to get their input about the impact the crime has had on their lives. The Probation Department will prepare a report for the Judge which will include a sentencing recommendation.

RESTITUTION: Value paid to the victim by the defendant, when ordered by the court, for any uninsured loss suffered by the victim as a direct result of the crime

SENTENCE: The consequence of a defendant's criminal acts imposed on him/her by the court after a finding of guilt.

SEQUESTRATION: The purpose of this order from the court is to insure that the witnesses' testimony will not be influenced as a result of hearing the testimony of other witnesses. This may mean periods of waiting outside the courtroom during the trial. If you are sequestered, do not discuss the case with other witnesses. Victims of crimes may not be sequestered and may remain in the courtroom during the trial.

SUBPOENA: A court order directing a person to be present at the time, date and place stated on the subpoena. While your case is pending, you may receive subpoenas by mail or in person. Read the subpoena carefully and follow the directions stated on the subpoena. If you have any questions regarding your responsibility contact the Victim/Witness Coordinator

SUSTAINED: When the court upholds an objection. If an objection is sustained, the evidence objected to will not be admitted for the jury's consideration

TESTIMONY: Any statement made by a witness under oath in a legal proceeding

VERDICT: Unanimous decision by the members of a jury, based upon the evidence submitted during the trial

VICTIM: A person who suffers direct or threatened physical, emotional, psychological or financial harm as a result of the commission or the attempted commission of a crime or the immediate family of any victim who is a minor or who is incompetent, or the immediate family of a homicide victim

VICTIM IMPACT STATEMENT: A statement prepared by the victim for the court for consideration in sentencing. This statement may be delivered to the court orally or in writing.

WITNESS: A person who testifies under oath regarding what he/she has heard, seen or otherwise perceived

NOTES

IMPORTANT TELEPHONE NUMBERS

NH STATE WIDE EMERGENCY
POLICE, FIRE, MEDICAL 911
NH STATE POLICE 1-800-525-5555

MERRIMACK COUNTY

County Attorney 228-0529
Victim/Witness Program 228-0529
Superior Court 225-5501

MEDICAL HEALTH

Concord Hospital 225-2711
Franklin Regional Hospital 934-2060
New London Hospital 526-2911

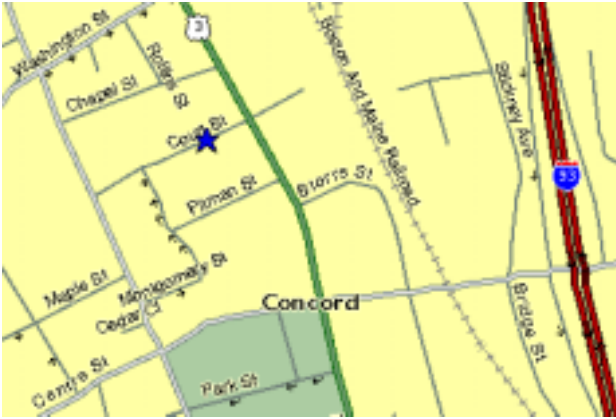
GENERAL ASSISTANCE

Community Action Program
Concord 225-6880
Suncook 485-5680
Warner 456-2207
Rape & Domestic Violence Crisis Ctr 225-9000
Help Line 1-800-852-3388
NH DCYF 1-800-894-5533
MADD NH 1-800-764-6233
Victims, Inc. 335-7777
Child and Family Services of NH 224-9313

LAW RELATED SERVICES/REFERRALS

Legal Advice & Referral Ctr 1-800-639-5290
Family Housing and Law Clinic 225-3350

DIRECTIONS



The Merrimack County Attorney's Office is located off Interstate 93 at EXIT #14. At the end of the off ramp travel WEST (towards Holiday Inn) on Loudon Road. Once on Loudon Road take your second right on to Route 3 NORTH/North Main Street and then take your second left on to Court Street. Our office is the first building on the right at 4 Court Street.

While you are at court, parking is available at the courthouse or on the surrounding streets. Please note parking limits to avoid a ticket