

## **QUESTIONS & ANSWERS ABOUT TESTIFYING**

### ***What is expected of me as a victim or a witness of a crime?***

You are expected to report the crime to your local Police Department and to testify as to what happened. The police will take your statement and file a complaint. A Complaint is a statement of facts about an alleged crime which, when filed in court, formally charges a person. An Arrest Warrant or a Summons to appear is then issued by the District Justice. An arrest warrant is an order signed by a judge, authorizing the police to arrest a person believed to have committed a crime. A summons is mailed to the accused and directs him/her to appear for a Preliminary Hearing.

### ***What happens after the suspect is arrested?***

The person accused of the crime is now called the Defendant. The defendant will make his/her first appearance before a local District Justice soon after the arrest at a Preliminary Arraignment. This appearance is for the purpose of setting bail, furnishing the defendant with a copy of the complaint, advising him/her of his/her right to legal counsel, and setting the date for the Preliminary Hearing. Your appearance is not required at the Preliminary Arraignment.

### ***What is the purpose of bail?***

Bail is used to insure the defendant's appearance in court. All defendants, except those charged with an offense punishable by death, are entitled by law to reasonable bail prior to trial. The seriousness of the crime charged is only one of the factors the judge considers in setting bail. He/She must also consider the status of the defendant --- employment, family, age, residence --- and any other factors relevant to whether the defendant is likely to flee the jurisdiction. The defendant will be released when he/she, or someone on his/her behalf, posts money, property or bond for bail. If the defendant later fails to appear at a scheduled court proceeding, a Bench Warrant will be issued for his/her arrest and he/she will be brought before a judge.

### ***What is a Preliminary Hearing?***

It is a scheduled court proceeding with testimony under oath, where the District Justice, the defendant, the defendant's attorney, the prosecutor from the District Attorney's office, the police officer in charge of the case, and you --- the victim or witness --- are present. The hearing is held at the District Justice's office in the area where the crime occurred.

The purpose of the Preliminary Hearing is to establish that there is enough evidence to hold the case for trial (*A Prima Facie Case*). The burden of proof lies with the prosecution to show that a crime has been committed, and that there is a reason to believe the defendant committed the crime. If you are called to testify, the Assistant District Attorney will want you to sit in the witness chair and answer the questions about who you are and what you know about the case. Usually the defendant offers no defense at this time. However, you will be cross-examined by the defendant's attorney. If a prima facie case is shown, the judge will rule that the defendant can waive (not demand) the Preliminary Hearing and proceed immediately to trial, in which case you will not have to testify at the Preliminary Hearing. You will, however, receive notice when the case is scheduled for trial.

### ***Do I need to get an attorney to represent me?***

No, the Assistant District Attorney will handle the prosecution of your case. He or She is an attorney who represents the interests of the people of Bucks County. The Assistant District Attorney will work with you, the police and the other witnesses to prepare and prosecute your case. The Assistant District Attorney is paid by the County so you are not required to pay legal fees. However, if you wish to pursue your case in civil court you must hire your own attorney to represent your interests there.

### ***What if I am threatened by the Defendant or their friends?***

Most witnesses never have this problem; however, if the defendant or anyone else attempts to intimidate you, notify your local police department immediately and call the Victim-Witness Unit in the District Attorney's office (215) 348-6307. Criminal charges can be brought against the person making the threat, and if the defendant threatens you, his bail can be revoked.

### ***What if the Defense Attorney contacts me about the case?***

Before speaking to anyone about the case you should ask to see the person's identification. You are under no obligation to talk to anyone. If the defendant's attorney or his investigator contacts you, you have the right to refuse to discuss the case with him/her; you may speak with him/her if you wish; or you may agree to speak with him/her only in the presence of your Assistant District Attorney. You should report all contacts to the District Attorney's Office.

### ***What if I move before the trial?***

Notify the Victim-Witness Unit in the District Attorney's office immediately and provide your new address and phone number.

### ***How do I get my property returned?***

If you are a victim of a crime, the police department may be holding your property as evidence. In some cases, it can be photographed and returned to you by the police. The Assistant District Attorney may ask you to bring that property to court with you later for use in the trial. However, some items must be held as evidence for the trial, and it may take some time before they can be returned. The Victim-Witness Unit in the District Attorney's office can help you get your property back.

### ***Before the scheduled trial, what can I as a victim or witness expect?***

About 4 to 6 weeks before the scheduled trial, you will receive, through the mail, a subpoena letter from the District Attorney's office. This letter is an official notice informing you of the date your case is scheduled to be heard. This letter will request that you call the Victim-Witness Unit of the District Attorney's office and place yourself on call. It is important that you call the District Attorney's office immediately upon receipt of the letter since it is an official court document.

The ***ON CALL SYSTEM*** has been designed to minimize the time you will have to spend in the Courthouse. If you can, provide the District Attorney's office with a telephone number where you can be reached between the hours of 9:00 a.m. and 3:30 p.m. on the trial date, and you will be permitted to remain at home, work or school. You will be called to court only if and when your appearance is necessary. If it will be impossible for you to appear on the trial date, you must call the Victim-Witness Unit of the District Attorney's office and inform them immediately.

It is normal to feel anxious about the upcoming trial. If you should have any questions or concerns, NOVA (Network of Victims Assistance) is available to assist you at (215) 348-5140. The program provides counseling, support and information for all victims and witnesses of crimes. In addition, experienced ***COURT ACCOMPANISTS*** are available to attend all court proceedings with you, to provide support and to offer advice on what to expect before, during and after court proceedings. All services provided by NOVA are free of charge, but you must call to request them (our 24-hour hotline is 215-348-5140).

### ***What can I expect in the courtroom?***

In a trial, the Assistant District Attorney has the burden of proving the defendant's guilt beyond a reasonable doubt. The defendant chooses whether a judge or a jury will decide the verdict.

Once you get into Court and are called as a witness, you will be placed under oath to swear to tell the truth. The District Attorney who calls on you to testify will question you about who you are and what you know about the case. This is called *Direct Examination*. After the District Attorney's questions are completed, the defense attorney will have the right to ask you questions about the same facts. This is called *Cross Examination*. You may feel during this questioning that your personal motives are being doubted. That is not the purpose of cross-examination. Rather, it is to ensure that all sides of the case are heard. If you are concerned about having to testify, call NOVA.

### ***May my friends and family be in the courtroom while I testify?***

Your friends and family members may be present in the Courtroom while you testify, provided that they themselves will not be called as witnesses. If they have been subpoenaed, they will be asked to wait outside the Courtroom (Sequestered) while you give your testimony. Witnesses are not permitted in the Courtroom while others are testifying because the court wants to hear what each witness

remembers about the crime. If all the witnesses listen to each other, some witnesses may change their testimony based on what they have heard. The court wants to know what you remember, and asking you to remain outside the Courtroom is the best way to guarantee this. After the witness has testified, however, he/she may remain in the Courtroom for the remainder of the trial.

### ***Will I be paid for my time as a witness?***

When you check in at the District Attorney's Booth in the Courthouse, a Victim-Witness Assistant will ask you to sign a Witness Slip. Within 4 to 6 weeks you will receive in the mail a nominal witness fee plus mileage.

### ***When will the defendant be sentenced?***

If the defendant is found guilty, the judge will set a date for sentencing. This date is usually six weeks after the trial. The judge may direct that the Department of Probation and Parole conduct a Pre-Sentence Investigation of the Defendant's background and the circumstances of the crime. They then provide the judge with a Pre-Sentence Report and a recommended sentence.

You have the right to let the sentencing judge know how the crime has affected you --- physically, psychologically and financially. Members of your family may also comment on how the crime has affected them. You will be contacted by the Probation Officer who is preparing the report and you should make these facts known to him/her. In addition, you may be present in the Courtroom on the day of sentencing and you may address the judge directly if you wish. Although your presence is not required at sentencing, you are encouraged to attend because it can sometimes make a difference in the length of the sentence handed down.

### ***Will I be compensated for the losses I have suffered as a result of a crime?***

First, if you haven't already done so, check with your insurance company. Your policy may provide coverage for medical bills or property damages which were caused by a crime. As part of his/her sentence, the judge may order the defendant to make **RESTITUTION** to the victim for damages caused by the crime. Restitution can be ordered for medical bills and for property damage or loss. When you receive your subpoena letter, a restitution form will be enclosed. You should complete the form, attaching any bills or estimates you have, and return it promptly to the District Attorney's office, so that appropriate restitution will be ordered in your case. Call the Victim-Witness Unit (215-348-6307) if you have any questions about restitution.

If you have sustained physical injury as a direct result of a crime of violence, or are legally dependent for support upon a person who has sustained physical injury or death as a direct result of a crime of violence, you may qualify for **CRIME VICTIMS COMPENSATION** from the State of Pennsylvania for the out-of-pocket medical bills, burial expenses or lost wages which you have incurred as a result of the crime. It only covers expenses not covered by your insurance and does not pertain to property damage. To be eligible for Crime Victims Compensation you must report the crime to the police within 72 hours and fully cooperate with law enforcement agencies. A claim may be filed whether or not the criminal has been arrested.

If you think you may qualify, you are encouraged to apply for Crime Victims Compensation. Claim forms are available through the Victim-Witness Unit of the District Attorney's office (215-348-6307), and NOVA at (215-348-5140 or 215-752-3596). NOVA is available to assist you should you have any difficulty completing the application. A claim must be filed with the Crime Victims Compensation Board in Harrisburg within one year from the date of the crime.

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<sup>i</sup> Taken from *The Victim Witness Handbook* published by Network Of Victim Assistance (NOVA), Doylestown, Pennsylvania