



CRIMINAL LEGAL SYSTEM & CHILD VICTIM / WITNESSES

This resource is intended to help child and teen victims and their families understand the criminal legal system process. Due to input from communities of color, we use the term "criminal legal system" rather than "criminal justice system." Sometimes there is no justice for victims of crime in the system, especially for marginalized communities. Many people think of justice in other ways, which is discussed on the last page. For children, teens, and families interacting with the criminal legal system, we want you to know the process, your rights, and support available. We also explain terms on the last page. The criminal legal system has two main parts: Investigation and Prosecution.

INVESTIGATION

A criminal investigation is done by law enforcement (police). The police agency [where the crime happened] investigates the case. Usually, 911 or patrol officers take the initial report, and the investigation is conducted by detectives or trained police officers. The purpose is to collect evidence about crimes. Evidence includes:

- Interviews with the victim
- Interviews with other people who may know something about the crime
- Interview(s) with the person who is accused of the crime
- Medical reports
- Physical evidence from the victim or crime scene
- Forensic tests (e.g. DNA)
- Any other information that may help solve the crime

In King County, police work with the forensic interviewers at the Children's Justice Center of King County to interview children between the ages of 4 to 12. Teens are usually

interviewed by police. The forensic interviewers sometimes interview teens and vulnerable adults when police request it. After evidence is collected, police send cases to the prosecutor's office for review.

PROSECUTION

Prosecution is carried out by the prosecuting attorney's office. The prosecutor reviews the evidence and makes the decision about whether charges can be filed. If charges are filed, there will be legal hearings (such as arraignment) and other contacts between the prosecutor and the defense lawyers. This goes on over a period of months. The victim usually does not have to be involved.

Some cases where charges are filed will go to trial. But many cases end up with a guilty plea and the victim does not have to testify. If you need to testify, your advocate will help you through the process. If the offender is convicted, there will be a sentencing hearing where the victim can share an impact statement and/or speak to the judge.

Important to know:

1. Victims have a **right to have an advocate**. In King County, police and providers should refer victims to an advocacy agency that can help. Advocates can inform the victim and family members of key decisions and represent their concerns. The legal advocate can be present during interviews (except forensic interviews), meetings, and in court if the victim testifies.
2. The investigation and the charging decision **usually takes several months**, or more. This is because a successful prosecution depends on having a thorough investigation and making a careful decision about legal issues.

COMMON CONCERNS

Will my child be harmed by participating in the criminal legal process?

Most likely no. In many cases, child victims are interviewed in the investigation. Very few cases go to trial where a child has to testify in court. Even when a child victim testifies, they usually have temporary distress that goes away. This is typical for most people, including adults. A counselor or advocate can help child victims prepare for court and teach some stress management techniques.

Why isn't the offender arrested right away and kept in jail?

Sometimes the police can arrest an accused person right away but most often police need to complete the investigation first. During the investigation, police will tell the accused person not to have contact or pressure the victim. If this happens, police should be notified immediately.

Once an accused person is arrested or officially charged with a crime, there is a hearing to decide if the person can be released. Reasons they may be kept in jail:

- They can't post bail;
- The judge thinks they won't come back to court; or
- They pose a threat to public safety.

If charges aren't filed, does it mean the legal system doesn't believe a crime happened?

No. Prosecutors have to consider whether a crime can be proven in court. The legal standard is "beyond a reasonable doubt," not whether the crime happened. In many cases, prosecutors might believe a crime happened, but decide that charges cannot be filed. Factors may include:

- A child's age or ability to say what happened in court
- Lack of evidence
- Other circumstances

A prosecutor has to decide that the child victim would be able to testify in court. This means facing the offender and being questioned by the offender's lawyer.

Why do child victims have to testify in open court? Can't they use video recording or other witnesses instead?

Child victims are often the only eye witnesses to the crime committed. The Constitution gives defendants the right to face and question witnesses. There are very few situations where the victim of a crime doesn't have to testify if a case goes to trial.

What if the accused person is acquitted (found not guilty in the trial)? Will my child be psychologically harmed if this happens?

It can be very upsetting when an accused person is found not guilty. This is not the same as the court deciding the person is innocent. What this means is that the jury or judge did not believe that there was enough evidence to prove the case beyond a reasonable doubt. This is a very high standard. What the court decides does not change what actually happened. A counselor or advocate can help explain how the legal system works. It's important for child and teen victims to understand what an acquittal means.

SENTENCING

A sentencing hearing happens after an offender is convicted (found guilty). It is when the judge makes the decision about what will happen to the offender. Sentences can include how much time the convicted person will spend in jail or prison, and other restrictions like required counseling, staying away from children, or other rules.

Victims and other people affected by the crime can write an Impact Statement. They can be in court and/or speak to the judge at the sentencing. The child's advocate will help and can be present during the sentencing. This is a very important chance to tell the judge about the impact of the crime on the victim, the family and others. This is information that only the victim and the family really know. Judges consider the victim impact statements and what victims say at the sentencing. They can make a difference in what the judge decides, even though the law sets rules about how long a sentence can be.

HELPING CHILD VICTIMS / WITNESSES IN THE CRIMINAL LEGAL SYSTEM

In the legal system, the victim has an important role: to tell the truth about what happened. From then on, it is up to police and prosecutors in the criminal legal system to decide what happens. The outcome of the case depends on legal factors. No matter what happens legally, the child victim is the person who knows what really happened. What is most important to the child is that family believes and supports them.

Participating in the legal system can be empowering for some child victims and their families. Victims and families will always know that they did their part by reporting the crime and giving statements. The legal system is responsible for doing its part in holding the person who committed the crime accountable. Nothing can change what already happened. For many, taking action to report the crime is one step towards recovery from the impact of the crime.

The criminal legal system can be frustrating for victims and families. The process can take a long time. The result can be disappointing. It can help to have a counselor and/or advocate to talk about feelings. Learn about the process and victim's rights. Focusing on supporting the victim and getting back to normal activities is usually best for victims.

TERMS

Acquittal: Found not guilty in a trial.

Advocate: A professional who keeps the victim informed and can be present during interviews and hearings.

Arraignment: A defendant is notified in court of the crime they are charged with.

Bail: Amount of money a defendant puts up to be released from jail until the case is decided.

Conviction: The defendant is found guilty either by plea or trial.

Dismissal: The prosecutor or a judge decides that a criminal case cannot go forward.

Impact Statement: The victim and/or family share how they were affected by the crime.

Jail vs. Prison: Jails hold people awaiting trial or those with shorter term sentences. Prisons hold people with longer term sentences.

Jury: 12 citizens who decide if a case has been proven beyond a reasonable doubt.

Marginalized Communities: A group that is treated unfairly in society due to their identity.

Offender vs. Suspect vs. Defendant:

Offender (general term): a person who harms another person. Suspect (legal term): a person who is suspected of committing a crime.

Defendant (legal term): is a person who has been legally charged with a crime.

Plea: Claiming guilty or not guilty to charges.

Probable Cause: Legal basis for arresting a person before charges are filed.

Sentencing: The judge determines the consequences for a convicted defendant.

Trial: The victim and witnesses testify in court and the case is decided by a jury or judge.

JUSTICE & HEALING

Sometimes victims of crime do not feel that justice was served. Maybe they were not believed by others. Victims may feel that they were "put on trial." Victims are sometimes failed by the system, or they do not want the legal system involved. Sometimes the offender is a person that a victim or family still cares about. Justice and healing can happen in many ways:

- **Support.** Victims of crime can get support to cope with the distress or trauma. Support comes most often from friends and family. We have a helpful resource for supporters on our website.
- **Care.** Call our Center for more information about getting a medical exam, an advocate, and mental health counseling. We can help victims regardless of their legal case.
- **Accommodations.** Victims often have rights to have no contact with the offender if they go to the same school. They may have rights to academic accommodations to help their mental health. Contact the school counselor, Title IX Coordinator or Student Civil Rights.
- **Community Accountability.** Sometimes the community offers ideas how to hold the offender accountable and keep others safe. They can suggest consequences for the person who caused harm, and conditions to help prevent them from harming others.
- **Personal Accountability.** Sometimes the person who caused harm accepts responsibility for what they have done and seeks treatment and help.

WHERE TO GET HELP:

If the child or teen victim is involved with the criminal legal system, talk with your advocate about the case. Call our Center for help finding your advocate or for other support.