

One word of caution if you plan to appear. Sentencing are frequently postponed from the date originally set. Please call the afternoon before sentencing as it may save you an extra trip to the courthouse. Be prepared to give them the name of the defendant and the case number.

If the judge decides to send the defendant to the Department of Corrections (prison), he/she impose the maximum amount of time provided in the particular criminal statute involved. The judge will also recommend a minimum term the defendant must serve. However, it is up to the Board of Prison Terms and Paroles in Olympia to actually determine the minimum time a defendant must serve.

The judge may decide to “suspend” the sentence. That is, a sentence will be imposed, however, the defendant will not be required to serve the time in prison provided she/he fulfills certain conditions set by the judge. The defendant will be on probation during the period of his/her sentence, after which she/he will be free of supervision. The conviction will stand and be part of the defendant’s record.

As a condition of either a suspended or a deferred sentence the judge may require the defendant to serve up to one year in the county jail, either a residential drug treatment program, attend school, do unpaid community service or a number of other things. The Prosecutor’s Office will always recommend that, as a condition of probation, the defendant make “restitution” to the victim for physical injuries or economic losses sustained as a result of the crime. Usually a judge will not order “restitution” for mental anguish or suffering or for incidental expenses connected with the prosecution of the case, although you may list anything you wish on the “Victim’s Restitution Estimate.” If the defendant is sentenced to prison “restitution” will usually be ordered by the judge.

“Post Sentencing”—Once sentence is passed and restitution has been ordered, the Department of Corrections will put the convicted person on a payment schedule. The amount of jail-time, the assets of the person, and his/her employment situation will affect the amount she/he will be contributing per month and the duration of the payment period. What monies are paid go to the Court Clerk and hold in escrow. When a substantial amount is collected, the Clerk will disburse it to the victim. If there are several victims, the Clerk will disburse the funds on a percentage basis according to the size of each victim’s claim.

After sentencing call the **State Probation and Parole Office, 509.456.3260**, and ask for the officer handling the case in which you were victimized. The officer will be able to tell you what the payment schedule is, so you may get an idea of how much to expect and how soon you will receive it. After a period of time, you may call the **Court Clerk, 509.456.3688**, and ask how much is in the account. They will need the convicted person’s name and the court case file number. The probation officer or the Victim/Witness Assistance Unit can provide you with this information. Be sure to keep the Clerk advised of any changes in your mailing address. If you are in need of emergency assistance during non-office hours, please call **Crime Check, 509.456.2233**.

Your Resource for Information and Assistance

Spokane Crime Victim Service Center
1.866.751.7119

Spokane County Victim/Witness Unit
509.477.3646
Monday-Friday 8:30 a.m. to 5:00 p.m.

Spokane County Clerk of the Court
509.456.3688

Spokane County Prosecuting Attorney
509.477.3646

State Probation and Parole
509.456.3260

Program of

Lutheran Community Services
210 W. Sprague Ave., Spokane, WA 99201
Tel: 866.751.7119 (24 Hours)
Fax: 509.747.0690



Protecting the rights of crime victims



SPOKANE CRIME VICTIM
SERVICE CENTER

Your Resource for Information and Assistance

HOW A CASE IS PROSECUTED
IN SUPERIOR COURT

PROSECUTING A CASE IN SUPERIOR COURT

It is important that you, who have been the victim of a crime, understand the system which exists to protect your welfare and society's. The following describes what happens as a typical case moves through the system, keeping in mind every case is unique. If you have further questions please call Spokane Crime Victim Service Center.

“First Appearance”—Shortly after a person is arrested she/he must be brought before a judge for a preliminary appearance. At this time the judge will advise the defendant of her/his rights and set conditions of release either on bail or her/his own personal recognizance. There will contact from the Prosecuting Attorney's office regarding this case.

“Arraignment”—The next step in the process is arraignment. At this hearing the defendant is formally advised of the charges against her/him and enters a plea to the charges. If the defendant pleads “guilty” a date for sentencing will be set. If she/he pleads “not guilty” a date for trial will be set.

“Release of the Defendant”—Because the law presumes the defendant innocent and treats him/her as such, a defendant will be released on his/her personal recognizance, or his/her promise to appear in court at the appointed time. If the deputy prosecutor can show good reason to believe that the defendant will not return to court, then the judge may order the defendant to post bail or to be detained.

“Plea Bargain”—The Prosecutor's office engages in plea bargaining, which means settling a case without a trial. Problems of proving guilt provide one of the reasons for plea bargaining. The Prosecuting Attorney may feel that they “know” the defendant committed a particular crime, but unless they can prove it “beyond a reasonable doubt” with legally admissible evidence the Prosecuting Attorney may lose that case and the defendant will go free and cannot be charge again for the same offense.

In plea bargaining the Prosecuting Attorney is guided by the principle that the purpose of criminal prosecution is to obtain an appropriate sentence for the particular defendant. That sentence should be based on the seriousness of the crime and the defendant's past record, if any. A fair sentence will not punish above what is deserved or below what is expected by society. The legislature has enacted a new criminal code more in line with present social values and our standards for recommended sentences grew out that code.

Plea bargaining takes place in three main areas and your case may fall into one or more of those categories.

1. Multiple Counts—Frequently a defendant is charged with more than one crime at the same time. Each crime becomes a separate count; thus, a person who has committed three burglaries would be charged and tried on three counts of burglary. Washington law provides long maximum terms for all crimes. With these penalties a judge does not need to have multiple counts to adequately punish and control a defendant. Therefore the prosecuting attorney may agree to dismiss the multiple counts in return for a plea of guilty on one count. This eliminates the cost of a trial and yet does not limit the judge in applying a proper sentence.

2. Reduction—Sometimes problems of proof develop in a case which make conviction of the felony charged doubtful. In these cases the prosecuting attorney may accept a plea of guilty to a misdemeanor, where punishment is limited to one year, rather than lose the case entirely. These cases are pure compromises entered into by the prosecutor on the theory that some punishment is better than none.

3. Sentence Recommendation—Many times the prosecuting attorney will agree to recommend a specific sentence based on past criminal record and the seriousness of the present offense. The prosecuting attorney arrives at this sentences by using standards established in his/her office and applied equally to defendants with similar records and charges. The prosecuting attorney will always recommend restitution as a condition of probation when a victim has suffered physical injuries or economic loss.

It is important to remember that actual sentencing is done by judges not prosecutors. Whatever the prosecutors recommendation the judge is always free to impose any sentence permitted by law. He/she is never bound by the prosecutors sentence.

“Trial”—If a trial is to be held, you will receive a subpoena, an order of the court requiring you to appear. It will show the date, time and place scheduled, as well as the name of the deputy prosecutor assigned to try the case. You will be asked to come to his/her office for a personal interview prior to the trial. At this time you will discuss your testimony and you can ask any questions you may have.

Occasionally, pre-trial hearings are held at which victims and witnesses may be required to testify. This will be in addition to testifying at trials and you will receive an additional subpoena specifying the time, place and courtroom at which you must appear. The deputy prosecutor assigned to the case will discuss your testimony for pre-trial hearings before your appearance.

“What the prosecutor must prove”.—Before you can understand the operation of the criminal justice system you must understand the presumption of innocence and the “burden of proof” in criminal prosecution. These are fundamental principles of our legal system, established in the Constitution. No one contends that they should be abolished but they do make prosecution more difficult.

The law presumes every person accused of a crime to be innocent and requires that every part of the legal system—judge, jury, prosecutor—treat the defendant as it would treat an innocent person until legal guilt has been established in the courts. The state legislature defines what acts committed under what circumstances are crimes. The prosecution must prove the defendant is guilty of committing a specific act under the prescribed circumstances. The defendant need prove nothing, he or she is not required to testify, offer any evidence or even present a defense of any kind.

The law requires that the prosecution prove a defendant guilty **“beyond a reasonable doubt.”** This means that if the judge or jury has reasonable doubt as to the defendant's guilt it must resolve that doubt in favor of the defendant and find him/her not guilty. This is a very high burden of proof, much higher than required in a civil case where the burden of proof is a **“preponderance of the evidence,”** which only means **“more likely than not.”**

Proof of guilt beyond a reasonable doubt must be established by legally admissible evidence. The rules of evidence are too complex to describe here, but it must be recognized that the law has very strict rules about how it may be used by the prosecutor in the attempt to establish guilt. Before the trial a hearing is often held during which a judge decides what evidence and testimony can be used.

“Sentencing.”—If the prosecutor has been successful up this point and the defendant has either pled guilty or been found guilty at trial, a date for sentencing will be set. It is usually about 4 to 6 weeks after the determination of guilt. You will be notified of the date set for sentencing. Your appearance at sentencing is not mandatory, but you may appear if you wish, either in person or by writing your views to the judge. If you wish to write a letter we suggest you sent it to the Victim/Witness Unit so that it will be sure to be presented to the judge at the proper time. If you wish to appear in person contact the **Victim/Witness Unit at 509.477.3646.**