

How long will I be in court?

You may be excused after a few minutes or you might be needed for more than a day. Most witnesses are on the witness stand less than an hour. There is usually a waiting period so you may want to bring something to read. Call the Victim/Witness Assistance Unit if you need to know in advance how long you are expected to be available to testify or if you have questions about where to park, dress code for court, etc.

What can I do with my children?

Court can be long and complex. It is not a good place to entertain children so try to find a relative, neighbor or friend to care for your children at home. If you are unable to do so, call the Victim/Witness Assistance Unit for help.

Will I be safe at court?

If you have concerns about your safety, talk to the Victim/Witness Assistance Unit. As needed, arrangements can be made for separate waiting areas and other safety measures.

What if the defendant is not convicted?

You may feel that justice has failed, but it is important to remember that our system calls for guilt beyond a reasonable doubt. With your help, the Prosecutor's Office will do as much as it can to get a conviction but it may not be enough. As strong as the evidence may seem to you, the judge or jury might have reasonable doubts. Even if there is no conviction, the offender may be discouraged from committing future crimes.

Definitions

Acquittal – a discharge or release which takes place when the judge or jury finds a verdict of not guilty after a trial.
Arraignment – a hearing at which the defendant is formally notified of the charges and at which time a plea of not guilty, guilty, or no contest is entered. If a not guilty plea is entered, the case is given a trial date.
Bail – an amount of money set by the police or court which must be posted or pledged before an accused may be released from jail to assure the person's presence in court.
Bench Warrant – a written court order directing the police or sheriff to arrest a person who has failed to appear at court, failed to follow a court order, or has been indicted by the Grand Jury for a crime.
Contempt – willful disobedience to or open disrespect for a court or judge.

Defendant – a person arrested and charged with committing a crime.

Deferred Acceptance of Guilty Plea (DAG) or Deferred Acceptance of No Contest Plea (DANC) – a pretrial procedure where the judge delays acceptance of the defendant's plea of guilty or no contest and places the defendant on probation with conditions. The charges may be dismissed upon successful completion of the terms and conditions set by the court.

Dismissed – the court can dismiss the charges against a defendant for a number of reasons. This does not mean the person was found "not guilty".

Felony – a crime punishable by more than a year in jail.

Grand Jury – a jury of 8-16 people who determine if there is probable cause to believe that the suspect committed the crime. Defendant, defense attorney and judge are not present at this proceeding.

Indict – to formally accuse in writing.

Misdemeanor – a crime with a punishment of no more than one year in jail.

No Contest or "Nolo Contendere" – a Latin phrase meaning "I will not contest it". The principal difference between a plea of guilty and a plea of no contest is that the latter may not be used against the defendant in a civil action based on the same acts.

Penal Summons – an official complaint with a set court date.

Plea – a defendant's answer to a charge filed against him or her (guilty, not guilty, no contest).

Preliminary Hearing – a procedure at which a judge determines if there is probable cause to believe that the defendant committed the crime.

Probable Cause – a *reasonable* belief which supports that a defendant did actually commit the crime.

Prosecutor – a lawyer who represents the State in criminal proceedings and is responsible for bringing the accused to justice.

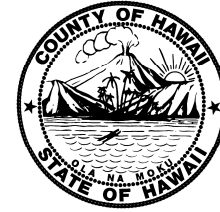
Released – after arrest, the defendant may be released with no charge, or released pending further investigation.

Sentencing – when the court decides on the punishment to be given to the defendant after a defendant pleads guilty to a crime or is found guilty after a trial.

Trial – a proceeding at which evidence is presented to a judge or jury who then must decide *beyond a reasonable doubt* whether the defendant committed the crimes.

Verdict – the formal decision or finding of *guilty* or *not guilty* made by a judge or jury at the end of a trial.

Victim Impact Statement – input provided by the victim about the impact of the crime. Used at sentencing or hearings before the Paroling Authority.



OFFICE OF THE PROSECUTING ATTORNEY

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A message from your Prosecutor



The Hawai'i County Prosecutor's Office is committed to serving our community by pursuing justice with integrity and commitment. Although we can never guarantee the outcome of a criminal case, we strive to ensure that victims of crime are compassionately served throughout the process. The Victim Assistance Unit supports victims by providing case updates, referring victims to various community resources, and offering emotional support during what can be a traumatic, frustrating, and confusing time. We are here to serve you with aloha and strive to make Hawai'i Island a better and safer place.

*Kelden B.A. Waltjen
Prosecuting Attorney*

THE VICTIM/WITNESS ASSISTANCE UNIT CAN HELP YOU WITH:

- Information about the criminal case and judicial process
- Support during court appearances
- Referrals to community resources
- Employer intercession
- Preparing your Victim Impact Statement
- Notification of a defendant's status
- Crisis counseling
- Property return and restitution
- Crime victim compensation information

WHAT YOU SHOULD KNOW ABOUT THE COURT SYSTEM:

As a victim or witness of crime, your participation is very important to the judicial system. When a criminal case is being prepared for a court hearing or trial, staff from the Prosecuting Attorney's Office may need to discuss the matter with you. Therefore it is important to keep us informed of any change to your address or phone number, or if you will be out of town for an extended period of time. We will let you know when you need to be in court but it's always best to

call our office to confirm when and where you will be needed.

COMMONLY ASKED QUESTIONS

What's in it for me?

You will know that you have helped to make your community safer. In our country, every person is presumed to be innocent until proven guilty beyond a reasonable doubt. To protect this right, we have a system with many painstaking steps and this system depends on the patience and commitment of citizens like you to make it work. We hope to share with you the satisfaction of a fair and successful outcome.

What happens if there are no charges?

Even if a suspect is not identified or charges cannot be filed, it is important to maintain contact with authorities. Your property may be recovered, or the police may obtain additional evidence. If you have any further information about your case, be sure to contact the investigating officer.

May I drop charges if I do not want to testify?

No. Your concerns will be taken into consideration, but the ultimate decision whether a case is charged is the responsibility of the deputy prosecutor assigned to the case.

Do I have to hire my own attorney?

No. All criminal cases are handled by the Prosecutor's Office on behalf of the State and its people at no cost to you. You may want to hire an attorney if you choose to pursue a civil case.

Is it okay to talk about the case?

Discussing the facts of the case with other victims or witnesses is not a good idea because it may confuse you or them. As the case progresses through the system, you may be contacted by Prosecutor's Office staff for additional details or the defense attorney may want an interview. It is your choice to speak to either side, but be sure you know who is asking for the information and how it will be used.

What about my medical bills?

If you are injured as a result of a crime, you may be eligible for compensation from the Crime Victim Compensation Commission. Restitution is also a possibility but the bottom line is that you are responsible for your bills. Contact the Victim/Witness Assistance Unit for more information.

What is restitution?

When a defendant has been convicted or has pled guilty, the Court can order the defendant to pay restitution for crime related losses such as property damage, unrecovered property, medical or psychological expenses, and burial expenses if there is documentation. It is important to keep receipts, bills, estimates for repairs, etc. in a safe place until needed for the case. Please understand that even if restitution is ordered, there is no guarantee of payment from the defendant.

When will my property be returned?

If your property is needed to prosecute the case, it can be released after the case is concluded (30 days after sentencing or after any appeals). The Victim/Witness Assistance Unit can help with the return of your property.

Do I have to appear if I am subpoenaed?

YES. A subpoena is a Court Order to appear at the time and place written on the subpoena. After receiving the subpoena, call the Prosecutor's Office and ask for the deputy prosecutor or staff assigned to the case. Keep in mind that it is appropriate for the deputy to discuss the case with you before going to court.

What happens when I go to the courthouse?

Call the Prosecutor's Office a few days before the court date to make sure that the hearing is still scheduled. Once you get there, wait outside the courtroom until it is time for you to testify. Bring the subpoena with you as a reminder of when and where you need to appear, and to help process your witness fees.

What happens in the courtroom?

As a witness for the State, you will be questioned by the deputy prosecutor then cross examined (asked additional questions) by the defense attorney. The questioning is not meant as a personal attack but to ensure that all sides of the case are heard and to establish the truth. The judge is there to help if you don't understand the question and to see that you are treated respectfully. After completing your testimony, you will be asked to leave the courtroom. Please wait outside until excused by Prosecutor's Office staff because you may need to be called back into court for other questions.