

# **COMMONLY ASKED QUESTIONS ABOUT THE CRIMINAL JUSTICE PROCESS**

## **Why did the police make an arrest?**

When the police are called, they must determine if there is probable cause, or enough evidence that an incident has occurred, in order to make an arrest. Mandatory Arrest means that the police have probable cause and the perpetrator must be arrested. The State of New York will then press the charges.

If the perpetrator left the scene and an arrest was NOT made, the police should give you a police report or a DIR (Domestic Incident Report).

## **What will happen at the Arraignment?**

An Arraignment is the defendant's first appearance in front of a Judge after his/her arrest. The defendant (perpetrator) is formally charged and either bail is set or the defendant is released. Bail is the Judge's decision, and is based on the likelihood that the defendant will return to court. A new court date will be set and the Judge may issue an Order of Protection on your behalf. The Judge may do this without your permission or presence in court. You are not required to appear for an arraignment.

## **What will happen with my case?**

The defendant may be offered a reduced plea once the District Attorney has discussed this with you. If a defendant does not want to plead guilty, then the Judge may set the case for trial. You may have to testify during the trial, along with any other witnesses and police officers.

## **How often will I have to come to court?**

After an arraignment, you will be sent a Victim Impact Statement from the advocates in the District Attorney's Office. Your attendance is not required for a court dates unless you are served with a subpoena. The DA's Office will try to limit the number of times you need to come in for your convenience and safety.

## **What happens if my case involves Felony-level charges?**

After an arraignment, a date for a Felony Hearing will be set within 5 days. The defendant will choose whether or not to waive his right to a hearing. If he/she chooses to waive, then the case will be transferred to the grand jury where felony level cases are handled. The defendant may

Wyoming County District Attorney's Office  
147 N. Main Street  
Warsaw NY 14569  
585-786-8822

choose to have a felony hearing, which requires you to testify about the basic facts of the case. This is not a trial where the Judge is deciding guilt or innocence, but rather whether or not to hold the case for Grand Jury action. A victim advocate from the District Attorney's Office is available to assist you with any questions you may have.

## **What happens at sentencing?**

Depending on the level of the charges, the defendant may be sentenced at the time he/she pleads guilty or is found guilty at trial. The Judge could also choose to order a Pre-sentence Investigation (PSI) to be done by the Probation Department. This is a report that will be submitted to the Judge regarding the defendant's background, history and recommendations for sentencing. The Sentence is up to the Judge who may or may not follow these recommendations. Part of the report may include a Victim Impact Statement, which is a letter you may write to the Judge at the sentencing phase that describes how the crime has impacted your life and what you would like to see happen as far as sentencing. Depending on the level of the charges, a sentence may include: Programs for abuse issues, Alcohol/Drug Counseling, Probation, Jail, or a combination of these.

## **What is an Order of Protection?**

There are 2 types of Orders of Protection (OP), or restraining order. A stay away Order of Protection (OP), is issued by the Judge ordering the defendant to stay away from you and have no contact of any kind with you including by phone, mail or third parties. Another type of order is the non-offensive contact order of protection, which means the defendant can be near you, but must refrain from any harassing, threatening or physical behavior towards you.

**This is a court order from the Judge naming you as the protected party. Although your name is on it, it is a court order and can only be changed by the Judge.** We understand you may have very important reasons for wanting contact with the defendant and will work with you to address your concerns.

## **What if my abuser continues to harass and/or contact me?**

After an arrest is made, it is very common for the defendant to attempt to reach out to you, both in person, by phone, and through third parties. The defendant may contact you from jail in violation of an order of protection. If the defendant contacts you, you should call 911 immediately. You can also do the following:

- Change your phone number or screen your calls.
- Document the dates/times of the harassment in a small calendar or notebook.
- Contact an Advocate at 585-786-8822 to alert the DA's Office after having called the police.

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