

MISSOULA

SPRING 2021

Process

STATE OF MONTANA

The Dignity Project

EDUCATED AND DECISION GUIDE

our mission

survivors are at the center of our work.

The Dignity Project has set out to increase clarity for survivors in the aftermath of trauma. We seek to enable and empower a survivor's ability to feel dignified and educated in the decisions they are asked to make.

We cannot guarantee that tomorrow things will make any sense, that someone will come and comfort you, understand you, reach out to you. Sometimes, there are more days when you may feel like you mean nothing to everyone than days that you can get out of bed with a smile.

But at the Dignity Project, we have made a promise to our community, that we will do all in our power to ensure that we can reduce feelings of confusion and frustration for at least one other survivor.

This is a gentle reminder, you are not alone.

This guide was created from us to you,





c r i m i n a l j u s t i c e s y s t e m

Justice means different things to different people. Reporting a crime to law enforcement is an individual decision that can be challenging to make. However, the decision to report a crime to law enforcement is entirely yours.

Some survivors say that reporting and working through the criminal justice system helped them recover and regain a sense of control over their lives. Some do not. It is a personal decision, that only you can make. This booklet will help you understand your avenues to obtain “justice” and further helps explain what each process will look like and where you fit in.

To report a crime to law enforcement, understanding how to report and learning more about the experience can help you feel more prepared and comfortable moving forward with a report. The following information may help you make your report. You may also speak to law enforcement and ask questions before you choose to do so.



CRIMINAL JUSTICE SYSTEM

your role

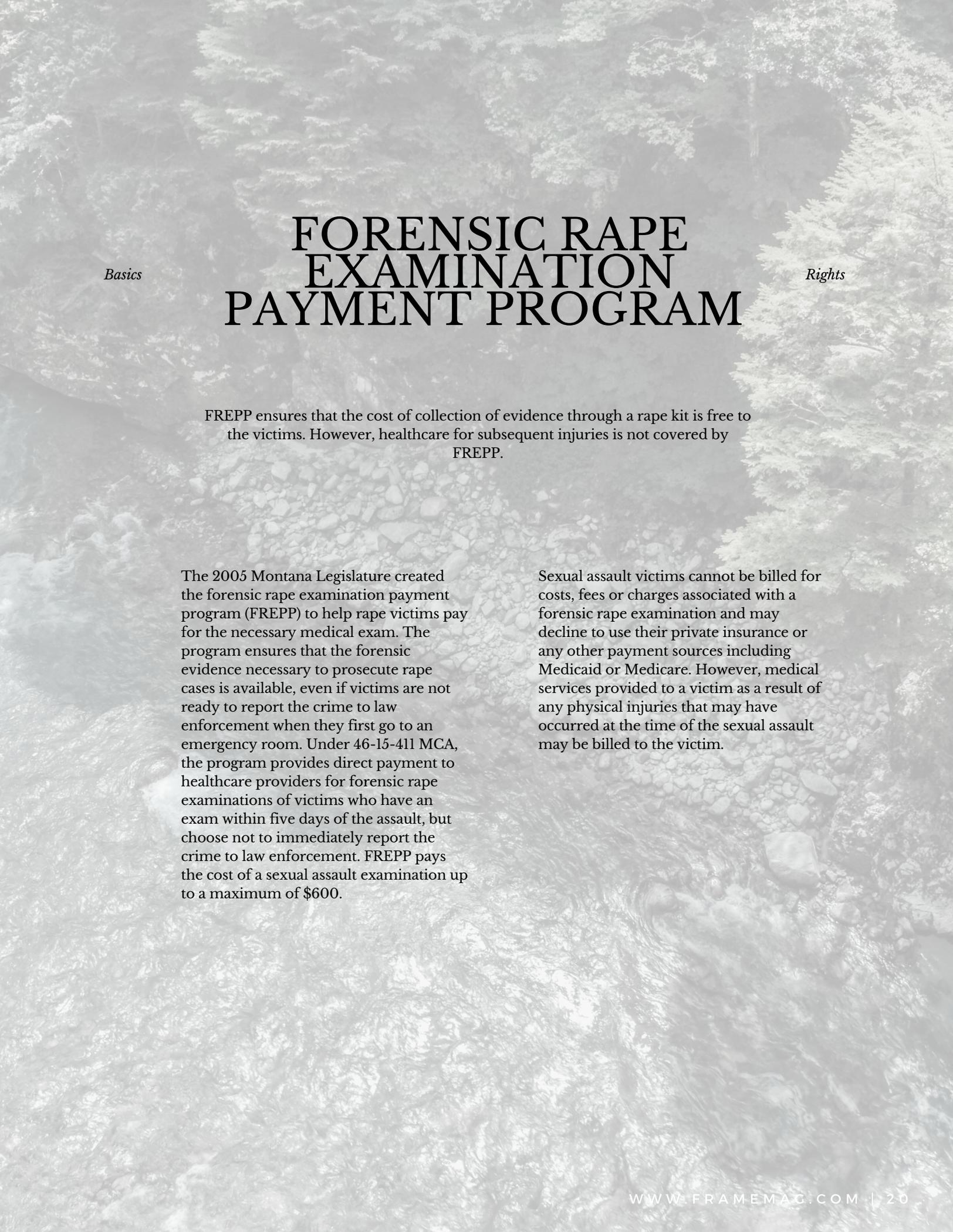
It is important to know that you are not pressing charges against the assailant. The state of Montana is pressing charges and you were witness in the state's case. This means that you cannot drop the charges. You'll be subpoenaed to testify during the criminal process. The prosecuting attorney will present the case on behalf of the people of the state of Montana and does not represent you.

However as a victim of a crime you do have special rights. Some of these include the right to be notified of all poor proceedings the right to talk with the prosecutor about the case and the right to call the prosecuting attorney's office to find out which prosecutors working on the case.

Following is a sequence of events the criminal justice system in Montana. It is important to note that each state may have a different system of way cases make it from charging decision to trial.

After the crime has occurred, The crime is reported. the crime can be reported a number of ways in the state of Montana. I can be reported by the victims themselves tube enforcement for throat tightening a brief kit. or the crime may be reported under the mandatory reporting guidelines find individual who is concerned for the safety another individual has mandatorily and legally obligated to report such conduct that has occurred





FORENSIC RAPE EXAMINATION PAYMENT PROGRAM

Basics

Rights

FREPP ensures that the cost of collection of evidence through a rape kit is free to the victims. However, healthcare for subsequent injuries is not covered by FREPP.

The 2005 Montana Legislature created the forensic rape examination payment program (FREPP) to help rape victims pay for the necessary medical exam. The program ensures that the forensic evidence necessary to prosecute rape cases is available, even if victims are not ready to report the crime to law enforcement when they first go to an emergency room. Under 46-15-411 MCA, the program provides direct payment to healthcare providers for forensic rape examinations of victims who have an exam within five days of the assault, but choose not to immediately report the crime to law enforcement. FREPP pays the cost of a sexual assault examination up to a maximum of \$600.

Sexual assault victims cannot be billed for costs, fees or charges associated with a forensic rape examination and may decline to use their private insurance or any other payment sources including Medicaid or Medicare. However, medical services provided to a victim as a result of any physical injuries that may have occurred at the time of the sexual assault may be billed to the victim.

FERPP

frequently asked questions

1. What is a forensic rape examination?

A "forensic rape examination" is an examination provided to a sexual assault victim by a physician or medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law.

2. What is the Forensic Rape Examination Payment Program (FREPP)?

FREPP provides direct payment to qualified healthcare providers for forensic rape examinations for victims who have an exam within 5 days of the crime and who choose NOT to report the crime immediately to law enforcement. Direct reimbursement from FREPP to providers of forensic examination services ensures that a sexual assault survivor will not pay for her/his own forensic examination. FREPP pays the cost of a sexual assault examination to a maximum of \$600.

3. What services are included in FREPP's definition of a "forensic rape examination"?

Covered costs include; Complete and customary sexual assault examination, Emergency room/facility charge, Physician/nurse examiner charge, STD and pregnancy prophylaxis, Blood and urine specimens for toxicology testing, Supplies, Laboratory testing, Pharmaceuticals, Mailing charges.

4. Must a victim have a forensic rape examination performed immediately?

A forensic exam must be performed within 5 days of the assault in order to obtain essential evidence.

5. Can a healthcare provider bill the victim for the remaining balance after FREPP pays?

No. A healthcare provider must accept FREPP's reimbursement rate as payment in full for covered services. The purpose of FREPP is to ensure that the victim not be held responsible for paying the cost of the forensic examination. The healthcare provider shall not submit any remaining balance after reimbursement by FREPP to the victim or commence civil actions against the victim to recover any balance due.

6. Can a healthcare provider bill the victim for services related to physical injuries?

Yes. If the victim suffered physical injuries due to the crime, the provider may bill the victim for that portion of the services.

7. Does a victim have to use his/her private healthcare insurance to pay for the forensic rape examination?

No. The patient may decline to use his/her private insurance or any other payment sources including Medicaid or Medicare.

8. If a victim used his/her insurance to pay for the cost of the exam, but insurance did not cover 100% of the bill, can the healthcare provider charge FREPP for the remaining balance?

Yes. Once private health care insurance is assigned, the hospital or healthcare provider may bill FREPP for any balance due. The balance due may not exceed the \$600 maximum allowed.

9. What types of healthcare providers are covered by FREPP?

- Any State of Montana accredited hospital
- A licensed provider in the State of Montana
- A Sexual Assault Nurse Examiner (SANE) program

10. If a private physician conducted a forensic rape examination in his/her office and did not use a forensic rape examination kit, can the physician still be reimbursed?

No. A forensic rape examination kit must be used.

11. Is it necessary to file a law enforcement report to qualify for coverage through FREPP?

No. FREPP was created for sexual assault victims who choose not to report the crime to law enforcement at the time of the sexual assault examination.

12. Will a victim be required to pursue prosecution in order to secure payment for the forensic rape examination?

No. FREPP does not require a sexual assault victim to pursue prosecution.

13. Once a forensic rape examination has been completed, what must be done with the evidence collected?

Forensic rape examination kits and any other evidence collected must be put into a box and mailed to FREPP.



There are several options for reporting. If you're in immediate danger dial 911, help will come to you wherever you are.

Contact the local police department. Visit the police station in person.

If you were on the University of Montana campus you can contact campus law enforcement.

You can choose to have a sexual assault forensic exam also known as a rape kit. Visit a medical center like First Step at St. Patrick's Hospital in Missoula. If you're being tested for injuries resulting from a sexual assault tell a medical professional that you wish to report the crime.

Law enforcement officers who have received specialized training to assist sexual assault victim. You may request a trained advocate to be there to accompany you through the reporting process. You always have a choice to opt out of services. If you do not want to work with an advocate you may decline, it is entirely up to you. Law enforcement agencies participate in sexual assault response teams, which aim to provide a survivor centered coordinated responses to sexual assault. They work to organize the investigation, reduce repetition of questions in interviews, and facilitate communication among all agencies involved.

You may choose to call the police department prior to arrival and they may be able to make arrangements to send an officer to you, if you are more comfortable giving a report in your home or a friend's home.

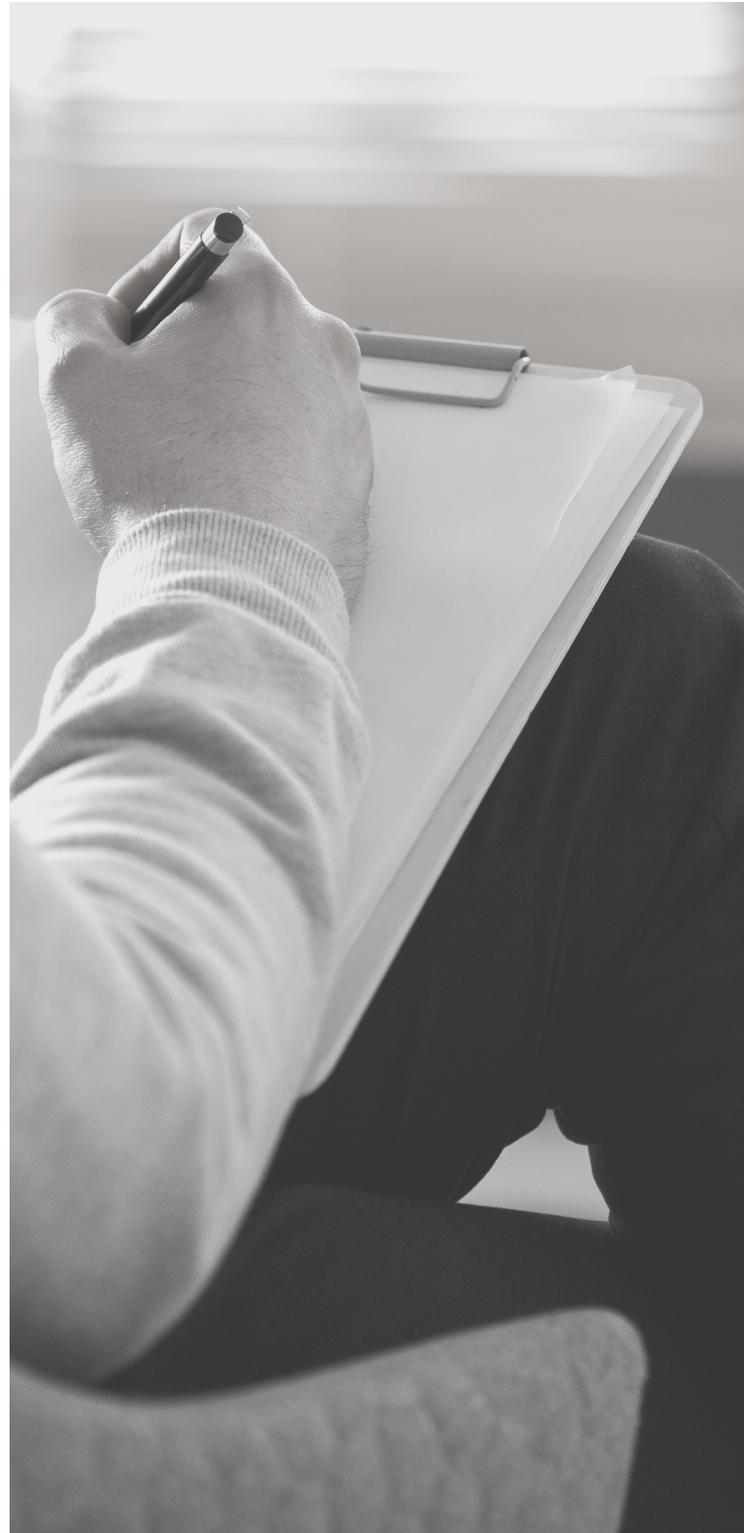
REPORTING

where and how



REPORT PROCESS

Law enforcement strives to create and operate a Survivor centered process. Knowing what to expect someone to speak up can help you feel more comfortable and in control. You should have privacy. When you discuss what happened to you with law enforcement it should happen in a quiet area way from others. If you feel that the situation is too public acts to be relocated to a more private space. It may take a while. When you first report the process may take a few hours. This is normal. Additional interviews with law enforcement may last awhile as well they may occur over an extended period of time. You can take a break. If you need water a snack or just a minute to breathe you can ask for a break. Some questions may feel uncomfortable. Because of the nature of sexual assault some questions can feel uncomfortable or intrusive. Use whatever terms or phrases that make you most comfortable. It can help remember that law enforcement officers are professionals just like doctors and teachers are prepared to listen to what happened. You may hear the question same question more than once. Law enforcement may ask the same question several times or several different ways. It is not because they don't trust you after a trauma can be difficult to describe details. Repeating a question or asking a different way may prompt you to remember something that you had forgotten the first time. You can choose to have support.



CRIME VICTIMS COMPENSATION

While no amount of compensation can erase the physical and emotional trauma experienced by crime victims, the Crime Victim Compensation program strives to reduce some of the financial burdens victims may suffer. The Crime Victims Compensation Act provides financial assistance to help innocent crime victims with crime-related medical expenses. Created in 1978, the Montana Crime Victim Compensation Program can help with loss of wages, medical expenses and funeral expenses incurred as the result of personal injury crimes.

In order to be considered for compensation benefits of victim or parent were of a minor must complete an application form and mail it to the crime victim compensation. You can obtain these forms for money law enforcement office city or county attorney victims advocate program or Hospital in the state. You may also call to obtain an application form. Be aware that it may take months before a decision is made on your claim eligibility.

Advise your medical providers to submit bills to your insurance carrier as soon as they receive services for from your medical providers. Send copies of your medical bills and explanation of benefits sheets to the CVC office.

If you are awarded benefits the CVC may pay outstanding balances for medical expenses directly related to the crime. If you've made personal payment on your medical bills please send copies of all your canceled checks or other proofs of payments that the CVC can reimburse you if your claim is awarded. If you're a Medicaid approved you are required to use a Medicaid provider. The Medicaid Program will pay your medical expenses and or mental health expenses if a medical provider accepts Medicaid patients. The medical provider must accept Medicaid payment as payment in full and cannot require you to pay the difference between the full charges and the Medicaid payment.

In addition to health insurance, other benefit sources that must be applied prior to CVC benefits including; Indian Health Services, Medicaid, Medicare, Social Security, workers compensation, auto insurance, VA benefits, proceeds from a civil suit, or restitution payments made by the offender.

Remember to submit all your medical expenses to any of these other sources of payment available to you so that the CVC can consider non-covered charges or outstanding balances for your payment. If seeing a mental health therapist he or she must be licensed by the state of Montana or the state in which you reside.

A mental health therapist can be a medical doctor, clinical psychologist, licensed social worker, or licensed professional counselor. Inpatient psychiatric care is not covered by the CVC, nor is chemical dependency counseling.

You must notify the CVC office if you change address or contact information or to request pre-authorizations to change medical care provider. Benefits cannot be paid for medical, dental, or mental health expenses if more than three years have elapsed since the date of last treatment.

If you receive restitution from the offender or money from a civil lawsuit you must notify the CVC. This will not affect your eligibility for benefits. Private attorney must be listed in Section I of your application and must include their name and address.

Filing a civil suit against the offender will have no effect on your eligibility for compensation benefits.



INVESTIGATION

Reports of sexual violence are taken seriously by law enforcement. When a Survivor reports a crime law enforcement interviews them and investigates the allegations to gather facts of the case. You have the right to have an advocate with you when you make a report to law enforcement and for your entire time that your case is active. The investigative stage of a case can take up to several months. Your Advocate will keep you updated on the progress of your case. Once the investigation is completed Law Enforcement Officers will prosecute. The prosecutor will review the case and decide whether or not charges will be filed against the accused.

After the initial report is made to law enforcement a Survivor can decide whether or not they would like to move forward with the investigation, however, in the criminal justice system a victim of crime does not press charges, only a prosecutor.

As a Survivor you're given the option to keep a report on file or to make a report and move forward with the investigation. At any time during the investigation. You may request to no longer be involved.

You may be asked to be interviewed numerous times, which is normal in sex crimes. Your interviews will be recorded and the officer will write a report following the interview describing, in their own words, what you shared.



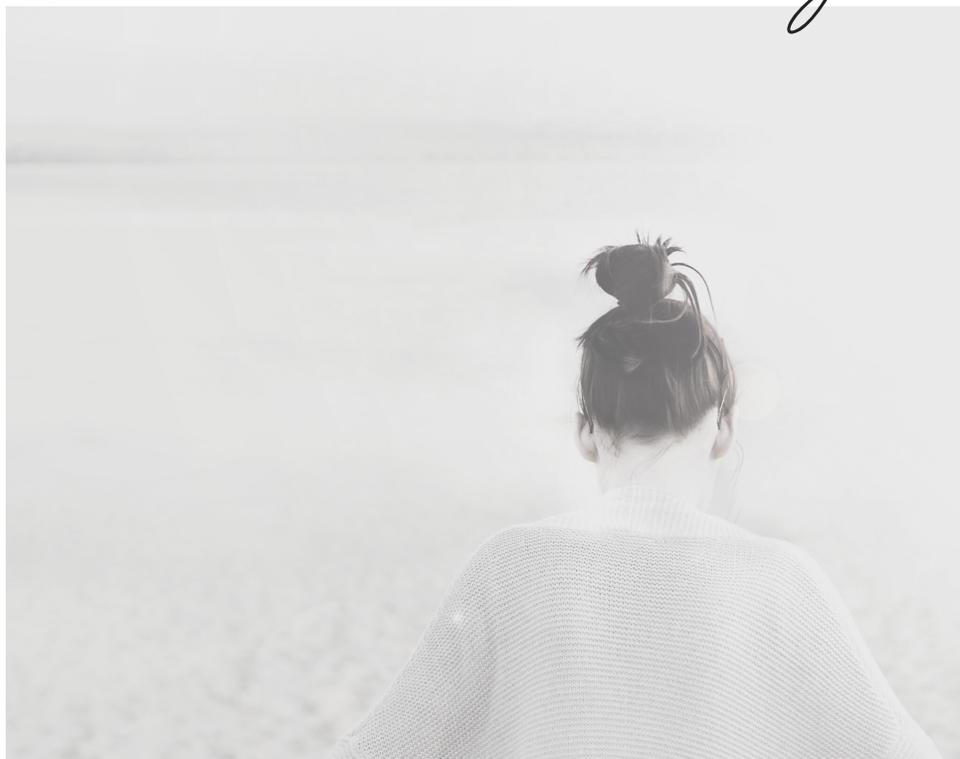
Prior to charging and after reviewing a case the County prosecutor's office may decide to decline to press charges. Prosecutors carefully review investigations of reported crimes. Each case is evaluated to assess if it can be proven beyond a reasonable doubt. Challenges to proving the cases may include lack of evidence, conflicting witness statements, inability to identify the perpetrator, or other factors. Although it can be tough to hear that your case was declined it does not mean that you are not believed that nothing can be done to help or support you. Victims of crime may want to pursue Justice beyond the criminal justice system. You may choose to file a civil lawsuit in order to receive monetary compensation for injuries or emotional harm.

After a substantial portion of the investigation is complete by law enforcement, law enforcement officers will determine whether or not to recommend charges to the prosecuting attorney's office. If a law enforcement officer determines that it is appropriate to refer the case to the County prosecutor's office with recommendation of charges, the officer will list which charges and send a report containing information such as witness statements and evidence that they have collected.

After receiving a recommendation for law enforcement the County prosecutor has the opportunity to sit down and review the case. In some jurisdictions in Montana County prosecutor's offices have a dedicated team of attorneys who are specially trained to handle cases with victims, particularly sex crimes. This group is called the SVU or the Special Victims Unit. The Special Victims Unit reviews cases recommended by law enforcement and selects an attorney from the SVU to be assigned to prosecute the case. The prosecutor may want to meet with the victim to collect more information, fill in holes in order to understand that case to the best of their ability.

RECOMENDATION TO CHARGE

Decision to charge





CHARGING DECISIONS

When a prosecutor decides to file criminal charges you'll be notified of this by either a crime victim Advocate and or the prosecuting attorney's office. Know that the criminal justice system is fairly slowly and it may be months, sometimes longer than a year or two, from the time that charges are filed until the resolution of your case. Crime victim advocates can help you through a criminal case and answer any questions you have.

You are also able to retain a private attorney to represent you in a case brought on by the state. Your advocate or attorney can keep you up-to-date on the status of your case, set up meetings with the prosecutor, accompany you to interviews and court, and support you throughout criminal proceedings.

It is important to know that only certain individuals are protected by either client attorney privilege or advocate privilege. These two privileges mean that your correspondence and communication with these people about the case bars them from testifying to the correspondence and may not be used against you. You may not be required to answer questions about correspondence that you've had with either and Advocate or your attorney.

Prosecutors do not represent you and do not fall under client-attorney privilege.



A County prosecutor will determine what to charge in assailant with. In the state of Montana there is an entire Title in the Montana code annotated dedicated to sexual crimes against a person. The important distinction is between a felony and a misdemeanor. In Montana a felony is any jail sentence that exceeds one year minimum or a \$10,000 fine. A misdemeanor is an offense charged that carries a sentence of less than one year or a \$10,000 fine. For sex crimes in Montana, rape is referred to as SWIC, also known as sexual intercourse without consent.

Sexual intercourse without consent is a felony. Sexual assault is a misdemeanor.

There are two ways in which an individual can be indicted. The first is by being charged by a County prosecutor. If the prosecuting attorney determines that there is sufficient evidence to move forward with a charge the attorney will file a complaint with the court which will start the criminal justice process. The prosecutor files documents and charges against the defendant. These documents are called an affidavit and charging documents. An affidavit is a sworn statement written by an individual who truthfully asserts facts, to the best of their knowledge, that would support a the underlying charge.

The less common way, in the state of Montana, is via a grand jury indictment. A grand jury is compromised of Citizen appointed by the governor to sit and either a 6 to 12 months. They hear testimony and view evidence of crimes to assist the county attorney in determining whether to charge the defendant. The grand jury will make a determination as to whether or not there is sufficient evidence to charge the individual. When the grand jury determines there is enough evidence it is called a grand jury indictment.

CHARGING PROCESS

felony v. misdemeanors



HEARINGS

frequently asked questions

A defendant will be summons to appear on the charges. The summons will either be served to the defendant's attorney or the defendant themselves or those who would know where the defendant is physically located. A summons is served by the Sheriff's Office. In cases in which he defended cannot be found where is intentional he evading law enforcement in the local area, United States Marshal Service can be contacted to serve such summons. A defendant maybe arrested to appear on the charges.

INITIAL APPEARANCE

After service the defendant will arrange for their initial appearance. At the initial appearance if the defendant does not have an attorney the court may appoint one or begin the process of assigning a public defender to represent him. The defendant will enter an initial plea, most often not guilty.

Bail or bond will be set at an initial appearance. The judge will determine if bail will be set or allow the defendant to be released on their own recognizance. To be released on bail defendants have to put up cash or other valuables to the court as a security to guarantee that the defendant will appear at another court date. Bond is when a defendant hires a bondsman who collects a non-refundable fee from the defendant to pay the bill.

The judge will also set the conditions of release. These are the rules of the defendant must follow while the case is pending. Each case is different but those conditions can include: remaining in the county, appearing in court, abstaining from drugs and or alcohol, submitting to a test for drugs and alcohol, monitoring by GPS or being supervised under a pretrial supervision program. The defendant will be prohibited from contacting the victim; called a no contact order. You have a right to give input to the judge regarding bail and conditions of release but a judge will make the final decision. A book and release is when the defendant is booked into the police department, including having their mugshots weekend and fingerprints, and then released by posting Bond bail or under conditions of their bail by being released on their own recognizance.

ARRAIGNMENT

The defendant will then be arraigned in District Court. The district court judge will read the charges and the defendant will give it be given the opportunity to plea. The prosecuting attorney may request a condition of bond that was not previously requested at their initial appearance. A prosecutor may also initiate a bond revocation proceeding. Local police may arrest the perpetrator if he or she violates the protective condition of bond.

PRELIMINARY HEARING

preliminary exam is a formal Hearing in front of a judge in which the prosecutor must prove that there is a reasonable cause to belief the crime took place and the accused committed the crime in order for proceedings to continue. The evidentiary standard in these hearings are substantially lower than the beyond a reasonable doubt. This hearing is frequently waived. If a preliminary exam is required the victim will likely be asked to testify. At the beginning of the victim's testimony you will have to look for the perpetrator and identify them in court and the prosecutor and attorney for the defendant will ask questions. The case may be dismissed at that point or may be sent to court for trial.

After the initial appearance before the trial there will be several court dates regarding your case. These can include an omnibus hearing, status conferences, pre-trial conferences, and oral argument on motions. Attorneys from both sides will file motions that will be in front of the court. Sometimes, the court will schedule a hearing for oral argument, you do not have to attend these hearings and your Advocate can keep you informed informed of the progress of your case.

OMNIBUS HEARING

Common hearings in the state of Montana include the omnibus hearing. At the omnibus hearing the judge will schedule a trial date and place it on the calendar as a first, second, or third setting. This does not mean that the trial is going to be scheduled three times. Because courts are so impacted and 80% of cases end in plea agreements, trial will frequently be set for cases that will not need to use their trial date. A first setting simply means that if that day is to come around a case will be the first to obtain a chance to sit in front of a jury for determination.

DISCOVERY

Discovery will occur. Discovery is a process in which the County attorney must provide all the evidence, witness statements, and information regarding the case to the defendant. The county attorney or the defendant through counsel, may request subpoenas or preservation of evidence.

It is important to know the defendant's typically request the preservation or collection of evidence from victim's personal electronic devices. If served with a subpoena for electronic devices the court will perform what is called an in camera review. An in camera review simply means that a court clerk will read through the material and select specific elements that the defendant is statutorily entitled to see. This is typically referring to exculpatory evidence. Exculpatory evidence is any evidence, statements, or information that could potentially prove the innocence of a defendant. The remainder of the information that is not disclosed after an in camera review is redacted and sealed and the public nor defendant may have access.

A defense attorney may file a subpoena for medical, counseling, or academic records. During the discovery process the defendant may hire a private investigator. Private investigators may reach out to friends and individuals whom you're close by to discuss the case and circumstances.

They may also collect evidence, screenshots, or other information that may potentially acquit or exonerate a defendant. Think of a private investigator as a police officer for the defendant.





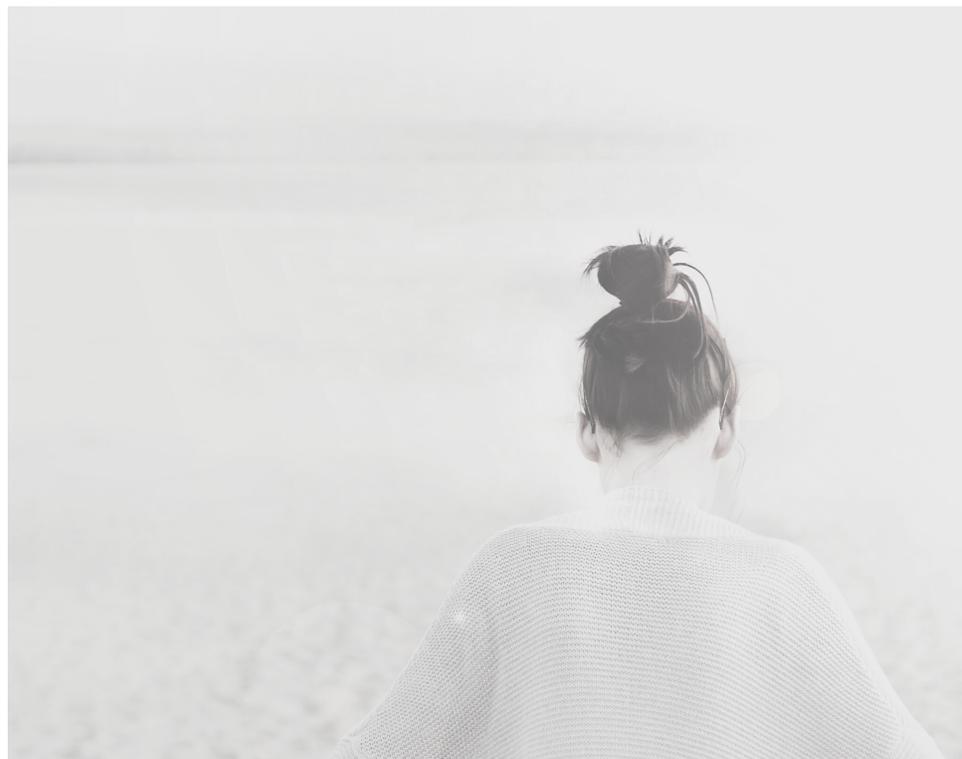
Common motions in sexual assault cases include motions in limine. A motion in limine simply means a motion to limit. For instance, a 404 rule motion in limine, prior bad acts or character, may be used by the defense to exclude evidence or discussion on prior bad acts or negative character evidence against the defendant. These motions are submitted to a judge prior to a jury being selected. A motion in limine is intended to exclude specific information or evidence from the jury prior to trial.

It is rare but may occur that as a victim, you are subpoenaed to appear for a criminal deposition. A criminal deposition is a deposition that occurs within the realm of the Criminal Justice System. A deposition differs from a forensic interview or interview with law enforcement or prosecuting attorney's because the interview questioning will be carried out by the defendant's attorney.

Depositions can be traumatizing, shameful, dehumanizing, embarrassing, humiliating, and frustrating for a number of reasons. In depositions, the defense attorney is able to ask questions that would regularly be barred through regular testimony in open court. For example they may ask questions about information that is regular protected by the rape-shield statute, which may not be admitted in open court. The defense attorney may use it as an opportunity to get into your head, confuse you, make you contradict previous statements, and make you believe that you are less reliable or worthy than you actually are.

DEPOSITIONS

motions in limine



PRE TRIAL MEETINGS

You may be asked by prosecutors to have pretrial meetings. As the case moves closer to trial you may be asked to meet with prosecutors and or the defense attorney. You have a right to private legal representation or an advocate to come with you to these meetings. The prosecutor will help you understand what to expect at trial. The defense at this time will be building the case to defend the accused. These meetings can be stressful but are important. Prosecutors may ask for your opinion or feelings on desired punishment for the defendant. Prosecutors may also ask you to recall details, take you to the courtroom to prep you for trial, explain the remainder of the process, and share their thoughts on the case.





Most cases are resolved through a plea bargain.

A plea bargain is an agreement between a prosecutor and the defendant in which the defendant agrees to plead guilty or Nolo contendere to a crime in return for a reduction of penalty such as a lighter sentence.

This course of action does not involve or require the survivor to testify. However, you will be asked to give the prosecutor information about what you would like to see happen with the case, which they will take into consideration.

They do not have to follow your recommendations or request at any point after the charging decision end up to trial.

A prosecutor may choose to dismiss charges against the defendant.

Dismissing charges against the defendant can happen for a number of reasons. Dismissals can happen at any time after the charges are filed but before trial commences.

A prosecutor must notify you before dismissing charges. A case can be dismissed with or without prejudice. When a case is dismissed with prejudice that means that the defendant cannot be tried again for the same charge arising from the same incident. A case dismissed without prejudice means that at any time between dismissal and the statute of limitations expiration, a prosecutor may charge the defendant with crimes in relation to the incident at hand.

PLEA AGREEMENTS

dismissals



TRIAL



Prior to trial prosecutors should prep you on what to expect in the courtroom. It is a good idea to familiarize yourself with the space. Though it seems impossible, try to take care of yourself as much as possible in the days leading up to trial. That includes getting some sleep, if possible, practicing grounding techniques, anxiety reduction methods, and discussing your feelings with an individual protected by advocate privilege or client and attorney privilege.

If the case goes to trial it will be tried in front of a jury. Jury selection can take half of the first full day of trial or a full day. Jury selection is called voir. During voir dire both the prosecuting attorney and defense attorney will ask individuals who are summoned to jury duty questions that reveal their beliefs, attitudes, and ideas about topics that may be relevant in the case. Each side is given the ability to strike a number of potential jurors from the jury pool without question. In the weeks prior, summons are sent out with jury questionnaires and responses are compiled into list prosecutors and defense attorneys pour through to find as in as much information on each individual juror as they possibly can. Prosecutors and defense attorneys look for small indicators and reactions in potential jurors. For example, it could be something as simple as a juror slightly nodding their head in agreement with the answer of another potential juror when questions are being asked.

At trial Both sides have the ability to call witnesses and experts to testify about the facts of the case.

Expert Witnesses will be presented and hand selected on each side to talk about scientific, psychological, and medical evidence or reactions that occurred or have occurred. Both the prosecutor and defense are required to submit expert witness to close disclosures prior to trial outline what their experts will be discussing their point of view and their stance. Almost everything that is said at trial is already known by both sides. To put it simply, there are rarely surprises in the courtroom.

TESTIFYING

You may be asked by prosecutors to have pretrial meetings. As the case moves closer to trial you may be asked to meet with prosecutors and or the defense attorney. You have a right to private legal representation or an advocate to come with you to these meetings. The prosecutor will help you understand what to expect at trial. The defense at this time will be building the case to defend the accused. These meetings can be stressful but are important. Prosecutors may ask for your opinion or feelings on desired punishment for the defendant. Prosecutors may also ask you to recall details, take you to the courtroom to prep you for trial, explain the remainder of the process, and share their thoughts on the case.





JURY TRIAL OUTCOMES

The trial may end in the following ways;

hung jury

Jury may be hung or a trial may end in a mistrial. If the jury cannot unanimously decide that the defendant is guilty the judge will call a mistrial. It is done the states decision to retry the case with a new jury. other procedural rules and factors may cause a mistrial. for instance Ager doing outside research on a scientific notation that was brought to the courtroom by an expert or discussing details of the crime with a significant other.

mistrial

Mistrials can occur if improper jury instructions are given, or an error in voir dire occurs. For instance if a juror did not disclose that they themselves for a victim of sexual violence or that they knew the defendant or a witness.

guilty

The jury may deliver a guilty verdict. If the defendant pleads guilty or is found guilty after the trial he or she will be sentenced by a judge. Sentencing does not occur on the same day that the verdict is put in.

not guilty

The jury may deliver a not guilty plea. If the jury finds the defendant is not guilty the defendant is free to go after the trial. The defendant may not be retried for the same crime.



SENTENCING & IMPACT STATEMENTS

Sentences may include prison time, probation, and/or paying restitution. A victim will be asked to give a victim impact statement which will be taken into consideration. You may also choose to speak to the judge at sentencing hearing. If the defendant is convicted, pleads guilty or no contest, the probation department will make a sentencing recommendation to the judge.

To submit or make a written or oral impact statement the probation officer for use in preparing the pre-sentence investigation report. Written statements turned in before the sentencing date will become a part of the file. This means that the defense attorney will have access to it and may share it with the perpetrator. If you so choose you also have the right to make an oral statement at the time of sentencing proceedings, even if you do not complete a written statement.

A victim impact statement may include but is not limited to the following; the nature of any physical psychological or emotional harm suffered, an explanation of economic loss or property damage, the need for or extent of restitution, and a recommendation for the defendants sentence.

If the victim is physically or emotionally unable to make an oral impact statement victim May designate any other person 18 years or older to make the statement on their behalf. The court shall consider the victim statement when imposing a sentence.



APPEALS

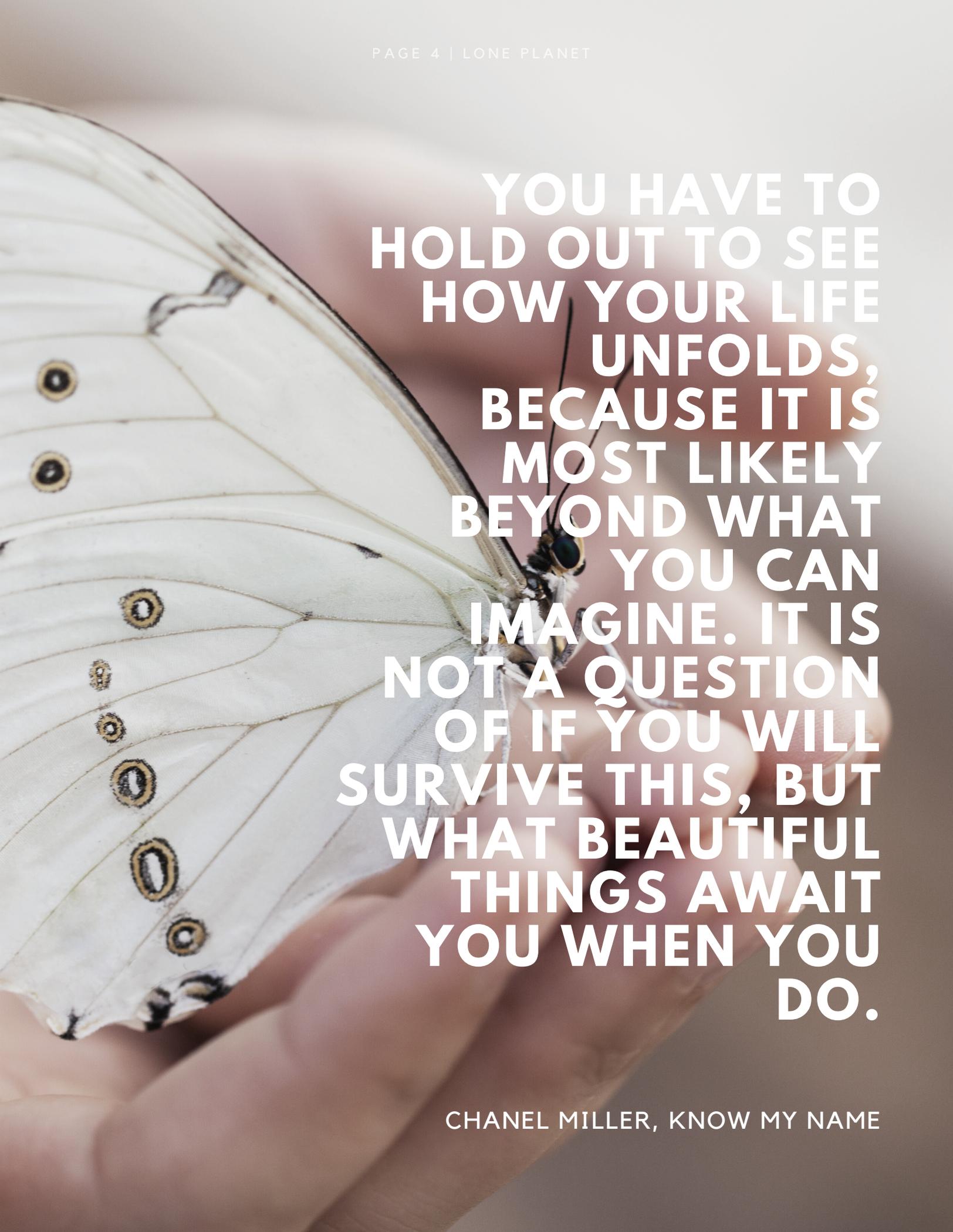


The defendant may appeal their conviction and if that happens there may be a new here. The defendant has a right to appeal the decision. Upon the request of the victim the prosecutor shall notify the victim if the defendant and/or the prosecutor has filed an appeal and whether the defendant has been ordered released on bail or own recognizance, pending the outcome of the appeal.

The prosecutor will notify the victim of the time and place of any Appellate Court proceedings and the result of the appeal.

It is very common for appeals to be filed.





**YOU HAVE TO
HOLD OUT TO SEE
HOW YOUR LIFE
UNFOLDS,
BECAUSE IT IS
MOST LIKELY
BEYOND WHAT
YOU CAN
IMAGINE. IT IS
NOT A QUESTION
OF IF YOU WILL
SURVIVE THIS, BUT
WHAT BEAUTIFUL
THINGS AWAIT
YOU WHEN YOU
DO.**

CHANEL MILLER, KNOW MY NAME