

# Office of the Elkhart County Prosecuting Attorney

Curtis T. Hill, Jr.,  
Prosecuting  
attorney



## Media Information September 2015

# CONTACTING THE OFFICE OF THE PROSECUTING ATTORNEY

## Media Contact Information

Heather Norman, Communications Director

Direct Line: (574) 296-1856

Email: [media@elkhartpa.com](mailto:media@elkhartpa.com)

## Office Contact Information

Office address: 301 S. Main Street, Suite 100; Elkhart, IN 46516

Office phone: (574) 296-1888

Office fax: (574) 296-1889

Lobby hours: The office is closed daily from 12:00 p.m. – 1:00 p.m.

Monday: 8:00 a.m. – 5:00 p.m.

Tuesday – Friday: 8:00 a.m. – 4:00 p.m.

Office website: <http://www.elkhartcountyprosecutor.com/>

## Register to Receive our Media Releases

Sign-up online <http://www.elkhartcountyprosecutor.com/contact-us/press-release-notifications>,

or call or e-mail request to the communications director.

## Social Media

The Office of the Prosecuting Attorney operates several official social media accounts:

- **Facebook:** [www.facebook.com/pages/Elkhart-County-Prosecutor](http://www.facebook.com/pages/Elkhart-County-Prosecutor)
- **Twitter:** @elkhartpros
- **Youtube:** [www.youtube.com/ElkhartProsecutor](http://www.youtube.com/ElkhartProsecutor)

## Additional Services

In addition to the Trial Division which represent the State of Indiana in felony and misdemeanor criminal proceedings the Office of the Prosecuting Attorney,

- Enforces child support obligations
- Provides assistance to victims of crime
- Conducts and supervises criminal investigations
- Supervises grand jury proceedings
- Conducts juvenile adjudications and prosecutions
- Operates alternative justice programs including misdemeanor and bad check diversion and infractions deferrals

# **PUBLICLY AVAILABLE LEGAL RESOURCES**

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## **Odyssey Case Management System**

Elkhart County utilizes the Indiana Supreme Court's Statewide Odyssey Case Management System to track all court proceedings in Elkhart county courts. Information available in this system is public and free and allows the public to search criminal cases by case number, defendant, and attorney.

Odyssey: <http://mycase.in.gov/>

## **Indiana Criminal Law**

The Office of the Prosecuting Attorney represents the State of Indiana in all felony and misdemeanor criminal prosecutions resulting from crimes committed within Elkhart County, Indiana.

Indiana criminal law and procedure is found in Indiana Code Title 35. This information is publically available at <http://iga.in.gov/legislative/laws/2014/ic/titles/035/>.

Specifically, state laws regarding sentencing in the state of Indiana are found in Indiana Code Title 35, Article 50. This information is publically available at <http://iga.in.gov/legislative/laws/2014/ic/titles/035/articles/050/>.

## **Upcoming Trials and Events**

The Office of the Prosecuting Attorney periodically updates a calendar of upcoming events including some trials we believe may be of public interest. Dates and times of upcoming events are subject to change and trial dates and time should be verified with Odyssey or the court.

<http://www.elkhartcountyprosecutor.com/news/event-calendar>

## CONTACTING LOCAL COURTS AND CLERKS

Questions regarding upcoming court dates and times should be checked in Odyssey and verified with the court.

<p><b>Elkhart Circuit Court</b>  Hon. Terry C. Shewmaker, Judge  101 N. Main St.  Goshen, IN 46526  Phone: (574) 535-6425</p>	<p><b>Elkhart Superior Court No. 1</b>  Hon. Evan S. Roberts, Judge  315 S. Second St.  Elkhart, IN 46516  Phone: (574) 523-2373</p>
<p><b>Elkhart City Court</b>  Hon. Charles H. Grodnik, Judge  229 S. Second St.  Elkhart, IN 46516  Phone: (574) 522-5272</p>	<p><b>Elkhart Superior Court No. 2</b>  Hon. Stephen R. Bowers, Judge  315 S. Second St.  Elkhart, IN 46516  Phone: (574) 523-2332</p>
<p><b>Goshen City Court</b>  Hon. Bodie J. Stegelmann, Judge  111 E. Jefferson St.  Goshen, IN 46528  Phone: (574) 533-9365</p>	<p><b>Elkhart Superior Court No. 3</b>  Hon. Teresa L. Cataldo, Judge  101 N. Main St.  Goshen, IN 46526  Phone: (574) 535-6442</p>
<p><b>Nappanee City Court</b>  Hon. Christopher G. Walter, Judge  300 W. Lincoln St.  Nappanee, IN 46550  Phone: (574) 773-2112</p>	<p><b>Elkhart Superior Court No. 4</b>  Hon. Gretchen S. Lund, Judge  101 N. Main St.  Goshen, IN 46526  Phone: (574) 535-6464</p>
<p><b>Courthouse</b>  Thomas A. Murto, Magistrate  101 N. Main St.  Goshen, IN 46526  Phone: (574) 535-6735</p>	<p><b>Elkhart Superior Court No. 5</b>  Hon. Charles C. Wicks, Judge  315 S. Second St.  Elkhart, IN 46516  Phone: (574) 523-2245</p>
<p><b>Courthouse</b>  Dean O. Burton, Magistrate  315 S. Second St.  Elkhart, IN 46516  Phone: (574) 523-2380</p>	<p><b>Elkhart Superior Court No. 6</b>  Hon. David C. Bonfiglio, Judge  315 S. Second St.  Elkhart, IN 46516  Phone: (574) 523-2382</p>
<p><b>Juvenile Court</b>  Deborah A. Domine, Magistrate  315 S. Second St.  Elkhart, IN 46516  Phone: (574) 523-2244</p>	<p><b>IV-D Court</b>  Rita A. Parsons, Commissioner  315 S. Second St.  Elkhart, IN 46516  Phone: (574) 523-2023</p>

## CONTACTING LOCAL COURTS AND CLERKS

The court clerk's office is the official keeper of records for documents filed with the court. Requests for records must be directed to the office of the clerk where the document was filed.

<p><b>Clerk of the Elkhart Circuit Court</b>          101 N. Main St.          Goshen, IN 46526          Phone: (574) 535-6430  <a href="mailto:circuitclerk@elkhartcounty.com">circuitclerk@elkhartcounty.com</a></p>	<p><b>Clerk of Elkhart Superior Court No. 1</b>          315 S. Second St.          Elkhart, IN 46516          Phone: (574) 523-2233  <a href="mailto:sup1-2clerk@elkhartcounty.com">sup1-2clerk@elkhartcounty.com</a></p>
<p><b>Clerk of Elkhart City Court</b>          229 S. Second St.          Elkhart, IN 46516          Phone: (574) 522-5272</p>	<p><b>Clerk of Elkhart Superior Court No. 2</b>          315 S. Second St.          Elkhart, IN 46516          Phone: (574) 523-2233  <a href="mailto:sup1-2clerk@elkhartcounty.com">sup1-2clerk@elkhartcounty.com</a></p>
<p><b>Clerk of Goshen City Court</b>          111 E. Jefferson St.          Goshen, IN 46528          Phone: (574) 533-9365  <a href="mailto:citycourt@goshencity.com">citycourt@goshencity.com</a></p>	<p><b>Clerk of Elkhart Superior Court No. 3</b>          101 N. Main St.          Goshen, IN 46526          Phone: (574) 535-6437  <a href="mailto:sup3clerk@elkhartcounty.com">sup3clerk@elkhartcounty.com</a></p>
<p><b>Clerk of Nappanee City Court</b>          300 W. Lincoln St.          Nappanee, IN 46550          Phone: (574) 773-2112  <a href="mailto:cityofnappanee@nappanee.org">cityofnappanee@nappanee.org</a></p>	<p><b>Clerk of Elkhart Superior Court No. 4</b>          101 N. Main St.          Goshen, IN 46526          Phone: (574) 535-6494  <a href="mailto:sup4clerk@elkhartcounty.com">sup4clerk@elkhartcounty.com</a></p>
<p><b>Juvenile Court</b>          315 S. Second St.          Elkhart, IN 46516          Phone: (574) 523-2284  <a href="mailto:juvenileclerk@elkhartcounty.com">juvenileclerk@elkhartcounty.com</a></p>	<p><b>Clerk of Elkhart Superior Court No. 5</b>          315 S. Second St.          Elkhart, IN 46516          Phone: (574) 523-2273  <a href="mailto:sup5clerk@elkhartcounty.com">sup5clerk@elkhartcounty.com</a></p>
<p><b>IV-D Court</b>          315 S. Second St.          Elkhart, IN 46516          Elkhart Phone: (574) 535-2229          Goshen Phone: (574) 535-6427  <a href="mailto:childsupportclerk@elkhartcounty.com">childsupportclerk@elkhartcounty.com</a></p>	<p><b>Clerk of Elkhart Superior Court No. 6</b>          315 S. Second St.          Elkhart, IN 46516          Phone: (574) 523-2007  <a href="mailto:sup6clerk@elkhartcounty.com">sup6clerk@elkhartcounty.com</a></p>

Indiana Judiciary website on Elkhart County Courts: <http://www.in.gov/judiciary/2951.htm#contact>

Elkhart County Clerk's Office: [www.elkhartcountyindiana.com/departments/Clerk/index.htm](http://www.elkhartcountyindiana.com/departments/Clerk/index.htm)

Goshen City Court: <http://www.goshenindiana.org/content/city-court>

Nappanee City Court: <http://www.nappanee.org/judge.html>

## HELPFUL TERMS TO KNOW

**Deputy Prosecuting Attorney** – In the Office of the Prosecuting Attorney, almost all cases are handled by Deputy Prosecuting Attorneys or DPAs. DPAs are appointed by the prosecuting attorney and have the power to prosecute crimes committed under Indiana law.

**In-Custody** – A law enforcement agency submits a case to the Office of the Prosecuting Attorney after an arrest is made. A probable cause hearing should be conducted within 48 hours (not intervened by weekends) of the arrest, and according to IC 35-33-7-3 formal charges must be filed within 72 hours (intervened by weekends) after the probable cause hearing unless the judge grants an extension.

**Not-in-Custody** – A law enforcement agency has submitted a case to the Office of the Prosecuting Attorney without making an arrest. Cases are assigned to a deputy prosecuting attorney to review and determine what, if any, future action (i.e. charges, further investigation) should occur in the case. Not in custody cases do not have the same statutorily mandated time requirements as in-custody cases.

**Probable Cause Affidavit** – An affidavit of probable cause is written by law enforcement to support the finding that an individual has violated Indiana law. If probable cause is found, this document is generally public record unless sealed by a judge. A PC affidavit is located at the clerk's office in the court where it is filed. PC affidavits for in-custody cases are usually filed in Superior Court I (Mon. – Fri.) although formal charges may be filed in a different court. For not-in-custody cases, PC affidavits are usually filed in the court where the formal charges are filed.

**Probable Cause Hearing** – During a probable cause hearing a judge or magistrate reviews PC affidavits submitted by law enforcement to decide if there is probable cause to support an arrest. If the reviewing judge or magistrate finds probable cause in a case, bond and an initial hearing date are set.

**Informal charges v formal charges** – Charges that appear on a PC affidavit are informal charges meaning that a law enforcement officer believes there is probable cause that an individual has violated the specified Indiana law(s). Formal charges are brought by the prosecuting attorney and filed in court. An individual can only be convicted on formal charges. Formal charges are not always the same as the informal charges listed on the PC affidavit.

**Appearance Form** – Pursuant to Criminal Rule 2.1(A) an appearance form is filed at the time criminal proceedings are commenced. As the elected county prosecuting attorney, Curtis T. Hill, Jr.'s name is on all appearance forms. The name listed as "Deputy Prosecuting Attorney assigned" is generally a better indication of who will be in court handling the case.

**Initial Hearing or Arraignment** - During the initial hearing an individual who has been charged with a crime is advised of their Constitutional rights, the potential penalties of the crime charged, and any deadlines they must meet. The court determines whether the defendant will hire a private attorney or will qualify for a public defender. Additional court dates are set at this hearing. Initial hearings generally occur within 10 days of the probable cause hearing.

## HELPFUL TERMS TO KNOW

**Omnibus Hearing** – An Omnibus hearing is usually a deadline date by which time certain motions and defenses must be filed such as a Notice of Alibi or an Insanity Defense. Some courts also treat the omnibus hearing as a status conference for the attorneys involved to discuss plea negotiations and exchange of information.

**Pre-Trial Conference** – This court date is an opportunity to provide a brief update to the court on the status of the case and set future court dates.

**Plea Bargain Deadline** - The Plea bargain deadline is the date upon which the defendant must formalize any plea agreement with the State of Indiana. While the state may accept a plea which comes after the plea bargain deadline, the defendant may not be afforded the same opportunities which were offered before this date.

**Plea Bargain** - Due to the number of cases prosecuted in Elkhart County, virtually all defendants are offered an opportunity to plead guilty to a charge rather than go to trial. Plea offers are made after the prosecution has evaluated the facts of the case as well as the character of the defendant. If there is a victim of the crime, that person is permitted to express his or her position regarding any plea offer proposed to the court by the parties. By pleading guilty with a plea agreement, the defendant waives his or her right to a jury trial and the right to appeal.

**Plea by Recommendation** - A plea by recommendation is an agreement between the prosecution and a defendant concerning the disposition of a felony or misdemeanor charge which occurs after the omnibus date. The Court may accept the recommendation entirely, in part, or not at all. The defendant does not waive his or her right to appeal or withdraw from pleading guilty.

**Plea without Terms (Chips plea)** - In this plea the prosecution and defense each argue what they believe is an appropriate sentence, and the judge makes the final decision.

**Bench Trial** – A bench trial is a trial before a judge and is common in misdemeanor cases.

**Jury Trial** – During a jury trial a decision of guilty or not guilty is made by members of the community after a presentation of evidence. For misdemeanor and Class D felony or Level 6 felony charges, a jury generally consists of 6 jurors and 1 alternate. For Class C felonies or Level 5 felonies and higher a jury consists of 12 members and at least 1 alternate.

**Suspendible sentence** - A sentence is suspendible if an offender is not legally required to spend time in jail. If a sentence is suspended and the individual violates the terms of their sentence, they may serve the remainder of their sentence in jail.

**Non-suspendible sentence** - If a person charged has a prior crime in a predetermined number of years then they are non-suspendible. A non-suspendible sentence requires the person spend a portion of time in jail.

## Rules of Professional Conduct

### Rule 3.6. Trial Publicity

(a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated by means of public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

(b) Notwithstanding paragraph (a), a lawyer may state:

(1) the claim, offense or defense involved and, except when prohibited by law, the identity of the persons involved;

(2) information contained in a public record;

(3) that an investigation of a matter is in progress;

(4) the scheduling or result of any step in litigation;

(5) a request for assistance in obtaining evidence and information necessary thereto;

(6) a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and

(7) in a criminal case, in addition to subparagraphs (1) through (6):

(i) the identity, residence, occupation and family status of the accused;

(ii) if the accused has not been apprehended, information necessary to aid in apprehension of that person;

(iii) the fact, time and place of arrest; and

(iv) the identity of investigating and arresting officers or agencies and the length of the investigation.

(c) Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.



## Indiana Rules of Court

(d) A statement referred to in paragraph (a) will be rebuttably presumed to have a substantial likelihood of materially prejudicing an adjudicative proceeding when it refers to that proceeding and the statement is related to:

(1) the character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;

(2) in a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;

50 (3) the performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

(4) any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;

(5) information that the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial; or

(6) the fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.

(e) No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).

### **Rule 3.8. Special Responsibilities of a Prosecutor**

The prosecutor in a criminal case shall:

(f) except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule.

# HOW A CASE MOVES THROUGH THE CRIMINAL JUSTICE SYSTEM

