

Know your Rights!

Crime victims have many rights. The California Constitution gives all victims of crime a victim's bill of rights known as Marsy's Law. In addition to the rights victims have under Marsy's Law there are several additional rights given to victims under other California laws. To help crime victims navigate through the system, and to obtain every right, the Riverside County District Attorney's Office has established the Division of Victim Services.

We urge you to immediately call Victim Services so that an advocate can be assigned to work with you (see back cover). They are compassionate, resourceful, and will guide you through the criminal justice process.

In addition to the resources of Victim Services, the District Attorney's Office has provided you with this Victim Rights Manual to help you understand your rights.

The Victim Rights Manual aims to explain to victims of crime the step-by-step procedures of the criminal justice system; from investigation to sentencing and parole. Incorporating all victim rights under California law, this manual will explain what rights victims of crime have at each stage of the process, and who is responsible for ensuring that their rights are enforced. On the pages that follow, these rights are broken down by the steps in the criminal justice system, but fall into eleven general categories:

- The Right to be Heard
- The Right to be Informed
- The Right to be Present
- The Right to be Protected
- The Right to Notice
- The Right to Obtain or Review Reports and Records
- The Right to Privacy
- The Right to Restitution
- The Right to Return of Property
- The Right to Special Accommodation or Treatment
- The Right to Support

Finally, in addition to the information provided in this manual about your rights during the course of a criminal case, you will also find many helpful resources at our website located at www.rivcoda.org.

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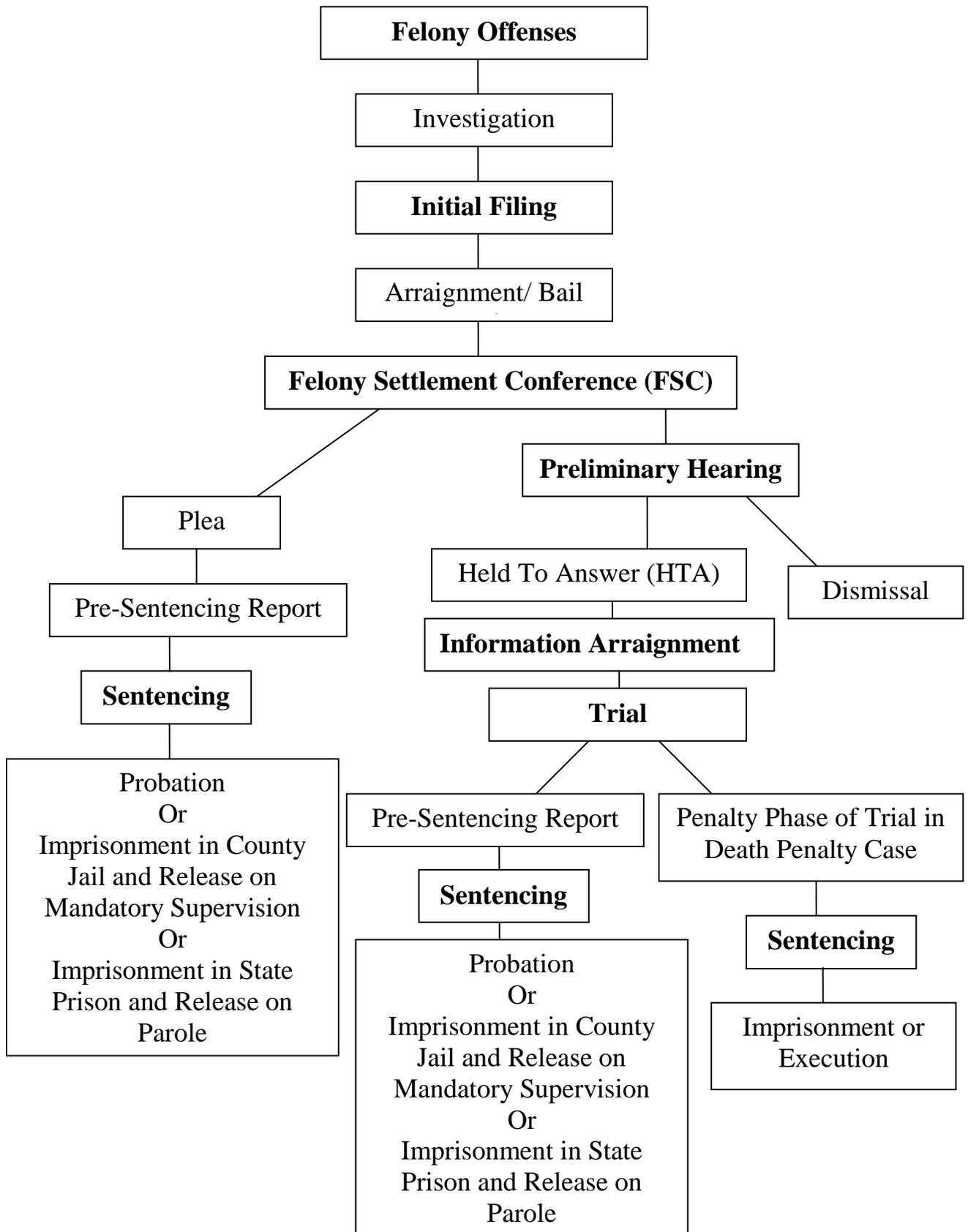
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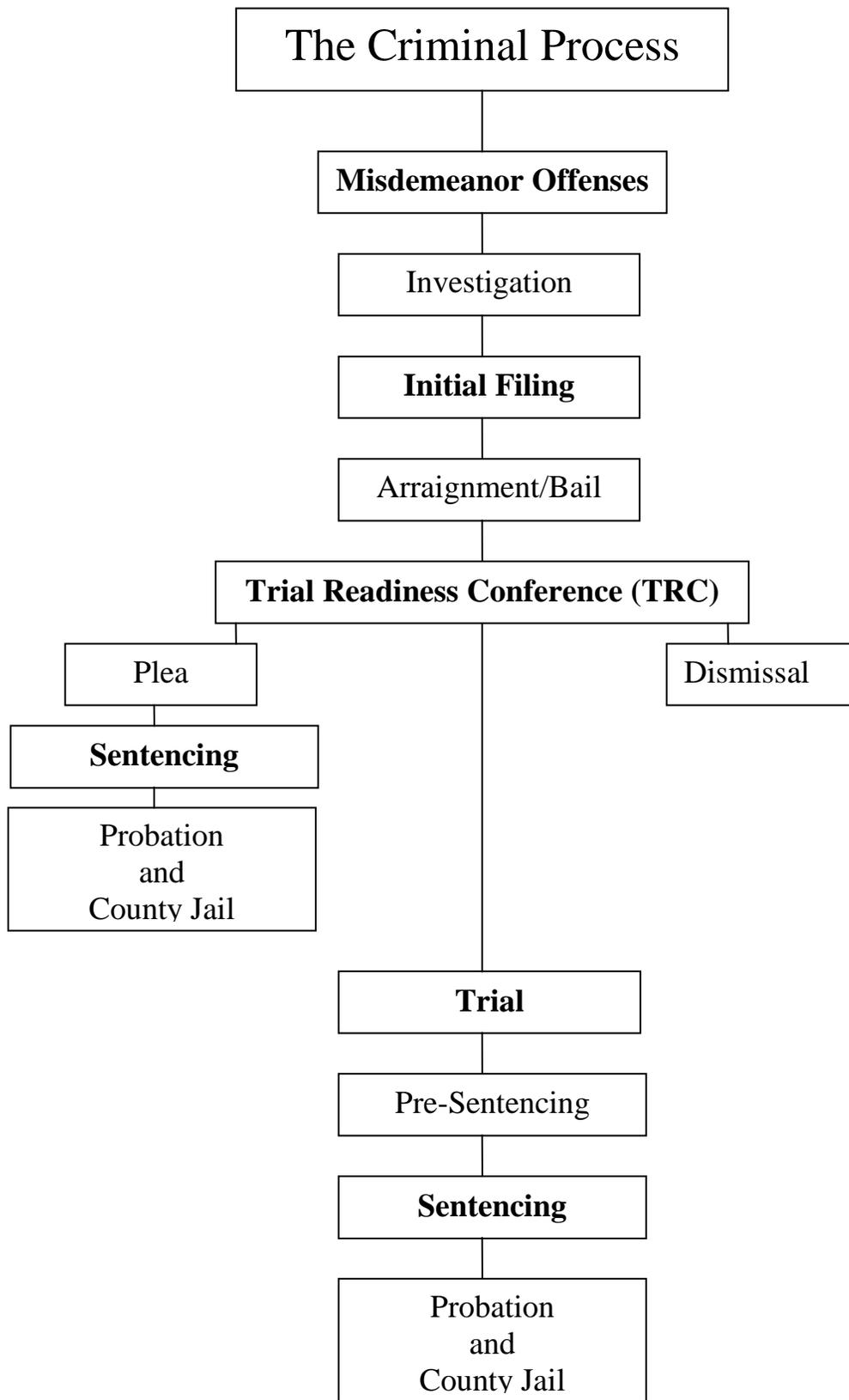
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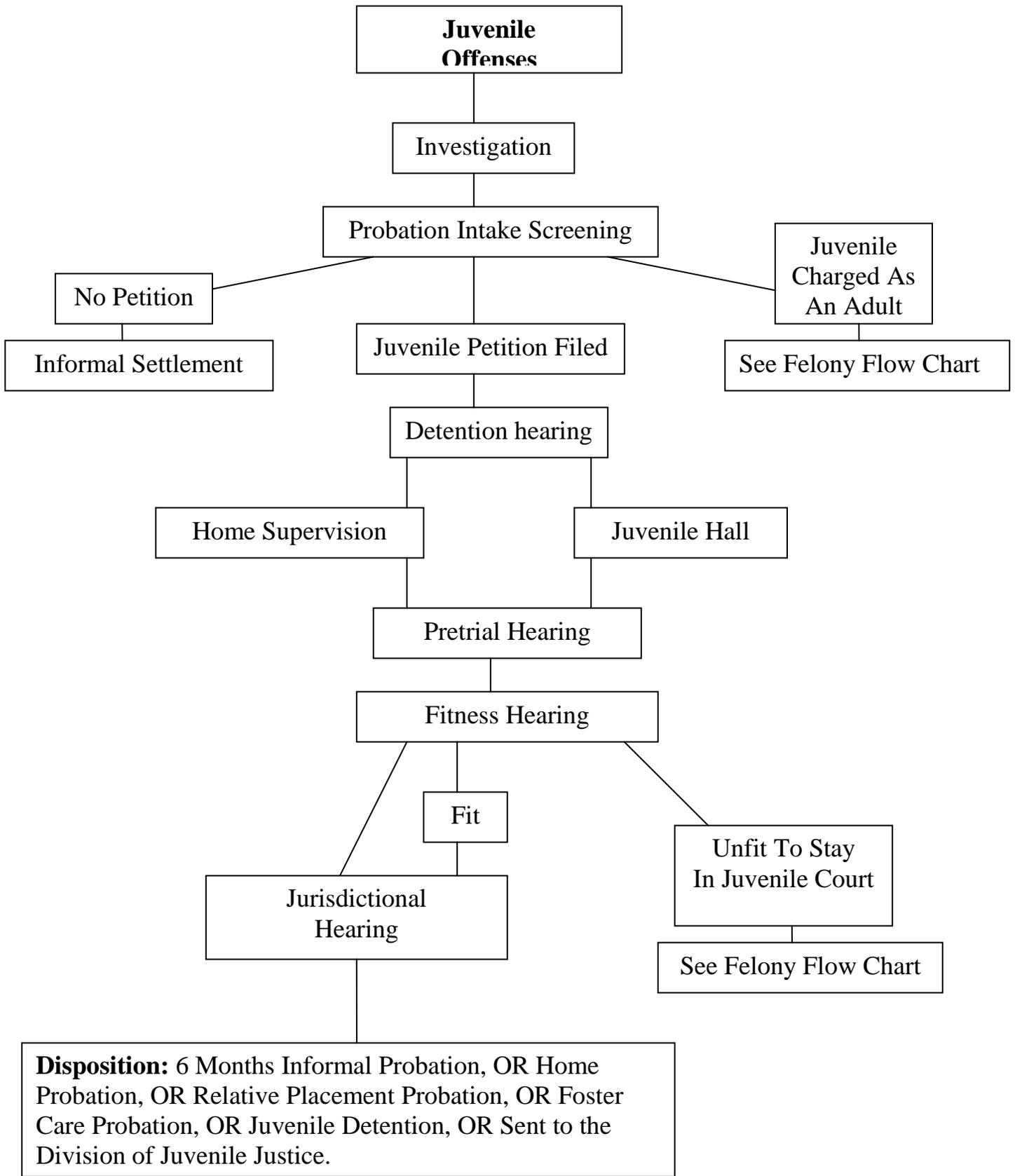
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I. FLOW CHART – The Life of a Criminal Prosecution







II. THE RIGHTS OF VICTIMS DURING THE COURSE OF THE CRIMINAL JUSTICE PROCESS

A. THE 17 RIGHTS MARSY'S LAW GIVES VICTIMS OF CRIME:

On November 4, 2008, California voters passed Proposition 9, also known as Marsy's Law, which amends Article 1, Section 28 of the California Constitution, to create a Victim's Bill of Rights. Marsy's Law broadly defines a victim as a person who suffers direct or threatened physical, psychological, or financial harm as a result of a suspect's criminal act. This includes spouses, parents, children, siblings, guardians, and the lawful representative of a direct victim who is deceased, incapacitated, or is a minor. Marsy's Law gives victims of crime 17 specific Constitutional Rights.

1. To be treated with fairness and respect for the victim's privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process. (Cal. Const. Art. 1 Sect. 28(b)(1).)
2. To be reasonably protected from the defendant and persons acting on behalf of the defendant. (Cal. Const. Art. 1 Sect. 28(b)(2).)
3. To have the victim's safety, and the safety of the victim's family considered in fixing the amount of bail and release conditions for the defendant. (Cal. Const. Art. 1 Sect. 28(b)(3).)
4. To prevent the disclosure of confidential information or records to the defendant, the defendant's attorney, or any other person acting on behalf of the defendant, which could be used to locate or harass the victim or the victim's family or which disclose confidential communications made in the course of medical or counseling treatment, or which are otherwise privileged or confidential by law. (Cal. Const. Art. 1 Sect. 28(b)(4).)
5. At any point during the criminal case, from investigation to sentencing, the victim has the right to refuse an interview, deposition, or discovery request by the defendant, the defendant's attorney, or any other person acting on behalf of the defendant and to set reasonable conditions on the conduct of any such interview to which the victim consents. (Cal. Const. Art. 1 Sect. 28(b)(5).)
6. To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding the arrest of the defendant if known by the district attorney, the charges filed, the determination whether to extradite the defendant, and upon request, to be notified of and informed before any pretrial disposition of the case. (Cal. Const. Art. 1 Sect. 28(b)(6).)
7. To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the district attorney are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings. (Cal. Const. Art. 1 Sect. 28(b)(7).)

8. To be heard, upon request, at any proceeding, including any delinquency proceeding involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue. (Cal. Const. Art. 1 Sect. 28(b)(8).)
9. To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings. (Cal. Const. Art. 1 Sect. 28(b)(9).)
10. To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant. (Cal. Const. Art. 1 Sect. 28(b)(10).)
11. To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law. (Cal. Const. Art. 1 Sect. 28(b)(11).)
12. To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody. (Cal. Const. Art. 1 Sect. 28(b)(12).)
13. To restitution. (Cal. Const. Art. 1 Sect. 28(b)(13).)
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15. To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender. (Cal. Const. Art. 1 Sect. 28(b)(15).)
16. To have the victim's safety, the safety of the victim's family and the safety of the general public considered before any parole or other post-judgment release decision is made. (Cal. Const. Art. 1 Sect. 28(b)(16).)
17. To be informed of the rights describe above. (Cal. Const. Art. 1 Sect. 28(b)(17).)

B. THE INVESTIGATION OF A POTENTIAL CRIME

1. General Overview

A police officer responds to the scene of a reported incident. Once he arrives, the officer conducts an investigation to determine if a crime was committed. During an investigation, an officer typically searches the scene for any evidence. The officer also interviews victims and potential witnesses who can provide detailed information about the potential crime. If there is reason for the officer to believe that a crime has occurred, the person suspected of committing the crime will either be arrested at the scene or arrested at a later date through an arrest warrant.

If the police determine that a crime has occurred, the United States Constitution provides the suspect the right to an attorney throughout the criminal process. With the passage of Marsy's Law, the California State Constitution now guarantees that the victims of crime also have rights.

2. All Victims Of Crime Have Rights During An Investigation:

a. Victims can keep their information from becoming public record or limit the public's access to their information.

The first steps the police take in investigating a crime is talking to witnesses and victims about what happened. In order to record these statements and use them in the future, the police will ask for names and contact information for the victims and witnesses. Although much of the information obtained during a criminal investigation becomes public record, the right to privacy under Marsy's Law prevents the release of the contact information of victims of crime to a defendant in a criminal case. (Cal. Const. Art. 1 Sect. 28(b)(4).)

b. If a case goes to trial, only the defense attorney receives the victim's contact information.

Even if the investigation leads to a criminal court case, the victim's address and phone number will not be made public record. The only person who gets the victim's contact information if the case goes to trial is the defense attorney. However, the Marsy's Law protection offered to the victim is still in place because the defense attorney cannot share the victim's contact information with anyone outside of the defense investigation team. (Cal. Const. Art. 1 Sect. 28(b)(1); Penal Code § 841.5.) Additionally, if the defense investigation team contacts the victim at any point during a criminal investigation, or a criminal case, the victim has a right to refuse to speak with them. (Cal. Const. Art. 1 Sect. 28(b)(5).)

c. Victims have the right to see the police reports on their case.

After police officers respond to the scene of the crime, take statements from witnesses and victims, and determine if a crime occurred, they document their findings in written police reports. Law enforcement agencies must disclose to victims of crime the information about the case that is contained in the police reports. If the victim is denied access to information about his or her case, he or she can ask the court to review the decision. (Government Code §§ 6254, 6259.)

3. Additional Rights Are Provided To Victims Of Sexual Assault Or Child Molestation

a. Who are sexual assault and child molestation victims?

A sexual assault victim can be an adult or a child who has suffered from unwanted sexual contact with or without physical force. If the police learn that a victim was sexually assaulted

within the last 72 hours, they are often required to take additional steps in their investigation. The most significant addition to a criminal investigation for a sex crime is the sexual assault exam. A sexual assault exam is done in a hospital by a member of the Sexual Assault Response Team (SART). This is a “forensic” exam, which means it is an exam used to collect evidence of sexual assault. The exam is performed by a specially trained nurse who collects the evidence. Victims of sexual assault are provided with additional rights related to the sexual assault examination.

b. A special exam with a trained forensic nurse is performed.

The hospital where the Sexual Assault Response Team (SART) exam takes place must comply with professional standards which dictate how the examination should be performed and how the evidence should be collected during the exam. The law also requires that a specially trained forensic nurse, and sometimes a doctor, be the person who conducts the exam. Victims have the right to have a sexual assault counselor from the local rape counseling center and a support person, of their own choosing, present with them during the exam. (Penal Code § 264.2(b).)

c. Victims are provided with pregnancy and sexually transmitted disease testing at no cost.

In addition to the Sexual Assault Response Team (SART) exam, the hospital also provides victims of sexual assault with pregnancy and sexually transmitted disease (STD) testing. (Health and Safety Code §§ 1491, 1492.) The SART exam, the pregnancy test, and the sexually transmitted disease (STD) testing are provided to victims of sexual assault or child molestation for free. Law enforcement pays for the cost of the exam and the hospital provides the pregnancy and STD testing. (Penal Code §§ 13823.9, 13823.11, 13823.95.)

d. If the suspect is tested for HIV or STDs, the victim has a right to know the results of his or her tests.

In some cases, the suspect in a sexual assault crime is also examined. If during this exam or during any part of the defendant’s incarceration in jail or prison, a DNA sample is taken or an HIV test is run, victims of sexual assault and child molestation have the right to know the results of those tests. (Penal Code §§ 680, 680(d)-(e).) Additionally, in some cases of serious sex offenses, suspects, whether an adult or a juvenile, can be forced to give a blood sample for HIV testing. In those instances, a sexual assault or child molestation victim will be advised of the result and offered additional counseling services. This right applies to victims of both charged and uncharged crimes.

If the defendant or juvenile is convicted of a sex crime and he or she has not already been tested for HIV, the court must order the HIV testing as a part of the sentence. The sexual assault or child molestation victim can request the results of these tests be sent to them. (Penal Code §§ 1202.1(d), 1524.1; Health and Safety Code § 21055.)

e. If a victim of sexual assault participates in counseling or requires medical attention during the work day, the victim has employment rights.

Once the physical exam is complete and the police have asked all the necessary questions, this phase of the investigation is concluded. However, as the criminal investigation and prosecution proceed, a victim of sexual assault may choose to seek help from a sexual assault counselor. A victim of sexual assault may participate in counseling or require medical attention during the work day. An employer with more than 25 employees may not discriminate

against, an employee who has been the victim of a sex crime or domestic violence for seeking medical attention or counseling. (Labor Code § 230.1.)

f. Counseling sessions are confidential.

A victim of sexual assault or child molestation may wish to obtain counseling. Whether or not to attend counseling is a decision that belongs entirely to the victim. Counseling sessions between a victim of sexual assault or child molestation and his or her counselor are privileged. This means the details are not to be discussed outside of the counseling session. They cannot be discussed in court and have nothing to do with the criminal prosecution. (Evidence Code §§ 1035.8, 1035.4, 1036.)

4. Additional Rights Are Provided To Victims Of Domestic Violence Crimes

a. There are several additional steps taken during the investigation of a domestic violence crime.

When the police respond to an incident of domestic violence, the officers will take custody of firearms and other deadly weapons in plain sight or discovered during any lawful search. This is done to protect the officers who respond to the scene and other people who are present. (Penal Code § 12028.5.)

After the scene is secured and the statements of the victims and witnesses have been taken, the responding officer should provide a victim of domestic violence with any additional emergency assistance needed. This includes medical care, safe passage from the home, a ride to a shelter, and security for the domestic violence victim to collect his or her belongings.

The officer may also provide a domestic violence victim with an Emergency Protective Order (EPO) to prevent contact from the defendant. (See Ch. 2A Protective Orders.) Finally, the officer will provide a domestic violence victim with a copy of the police report number and an information card which contains these rights. (Penal Code §§ 264.2(a), 679.08, 13701.)

b. Victims of domestic violence have the right to a domestic violence counselor and a support person during interviews.

After the initial interview by police officers, all victims of domestic violence have the right to bring a domestic violence counselor and a support person to any other interviews by law enforcement, the prosecution, or the defense. Victims should be notified of this right, by the officer or attorney, prior to the start of the interview. (Penal Code § 679.05.)

5. The Right To Protect The Identity Of A Victim Applies In Certain Sexual Assault, Child Abuse And Domestic Violence Offenses

a. General Overview

In addition to the different rights afforded to victims of sexual assault and domestic violence separately, there are also laws that allow victims of these types of crime to protect their identity. This includes preventing the victim's name from appearing in court documents and allows for easy access to a legal name change, and easy access to new license plates to help keep them safe.

b. Victims have the right to keep their names confidential.

The name of a sex crime, domestic violence, or child abuse victim can be kept confidential at the victim's request. The police officer who responds to the scene of a crime has

a duty to notify victims of this right. If a victim chooses to keep his or her name confidential the police office uses the name Jane or John Doe throughout his report. A form is then attached to the front of the report with the victim's true identity. Only people approved by the court will have access to the victim's true identity, including: the District Attorney's Office, the defense attorney, and the affected law agencies, including parole, California Department of Corrections and Rehabilitation (CDCR), and probation. (Penal Code § 293.) Marsy's Law protects contact information for all victims.

c. Victims can establish a confidential address, legally change their name, and/ or apply for new license plates

Sexual assault, domestic violence and stalking victims can also establish a confidential address to help ensure safety at home through the Secretary of State's Safe At Home Program. (Government Code §§ 6205-6211.) Safe at Home, is a confidential address program administered by the California Secretary of State's Office that offers victims a new start towards a brighter future free from fear. The Safe at Home Program participants can use a free post office box instead of their home address to help them maintain their privacy when: receiving first-class mail, opening a bank account, completing a confidential name change, filling out government documents, registering to vote, getting a driver's license, enrolling a child in school, and more.

Victims of sexual assault and domestic violence may also participate in a streamlined process for legally changing their names. (Code of Civil Procedure § 1277(b)(1) & (2).) If you are interested in changing your name, please ask your District Attorney's Office victim services advocate about this program.

Victims of domestic violence, stalking, rape or sexual battery may apply for new license plates to further protect their privacy and identity. As long as the victim can show: 1) the car is registered in their name; 2) they have a valid driver's license, and 3) they can produce information to show they are the victim of a crime, such as: a police report, court record, active protective order, or a letter from a domestic violence or rape center. If you need proof to change your license plate, please contact your District Attorney's Office victim services advocate. (Vehicle Code § 4467.)

C. THE INITIAL FILING OF A CRIMINAL CASE

1. General Overview

Once the police investigation is complete and an arrest warrant is written or the suspect is in custody, the law enforcement agency submits their police report to the Riverside County District Attorney's Office for evaluation. The reviewing deputy district attorney will determine if charges can be filed with the court. If the reviewing deputy district attorney determines that there is not enough evidence to prove a crime has occurred, no charges are filed and the accused person is released. If the reviewing deputy district attorney determines there is enough evidence to prove a crime was committed, charges are filed in the form of a complaint. The complaint is a form filed with the court that lists the charges filed against the defendant. If the defendant is in jail, he or she will be brought to court for arraignment on the day the complaint is filed. If the defendant was not arrested, or is no longer in jail, he or she is required to come to court for arraignment. If the defendant fails to appear in court, a warrant will be issued for his or her arrest.

a. Upon request, the victim has the right to notice and to confer with the District Attorney's Office.

While the District Attorney's Office is reviewing the case to determine if charges will be filed against the suspect, the victim of the alleged crime has some specific rights. Upon request, the victim has the right to talk to the deputy district attorney reviewing the case for filing about the defendant's arrest, the charges filed, and the decision about whether or not to extradite the defendant. To extradite the defendant means to bring the defendant back to California if he or she is captured in another state. If victims of a crime wish to speak to the deputy district attorney reviewing their case they may do so at any point by calling the Riverside County District Attorney's Office at 951-955-5400 and providing the suspect's name and police report number.

Upon request, the victim may be notified of, and informed before, any pretrial disposition of the case. (Cal. Const. Art. 1 Sect. 28(b)(6).)

2. The District Attorney's Office Division Of Victim Services Provides Comprehensive Services To Victims And Witnesses

Even if a victim does not wish to speak to the deputy district attorney reviewing the case for filing, all victims of crime should contact the Riverside County District Attorney's Office Division of Victim Services as soon as possible. The Division of Victim Services will provide comprehensive services to victims and witnesses of crime including:

- crisis intervention
- emergency assistance
- protective orders
- counseling and counseling referrals
- assistance in filing restitution claims for losses suffered as a result of the crime
- orientation to the criminal justice system
- notification
- transportation
- witness protection
- a court escort
- a waiting area for witnesses
- translation services
- follow up contact
- field visits
- services for special needs victims of crime
- employer intervention
- creditor intervention
- child care
- funeral arrangements
- crime prevention information (Penal Code §§ 13835- 13835.10.).

3. Victims Of Crime Have The Right To Obtain A Protective Order

There are four (4) different types of protective orders that are available to victims of crime and witnesses. Protective orders are given to victims of crime when there is a good cause to have concern for their safety. These orders enable a victim to call police if a defendant, also known as the restrained party, gets within a certain distance, usually 100 yards, or tries to contact him or her by phone, e-mail, or mail either personally or through another person. If a defendant violates a protective order he or she may be charged with an additional crime.

a. Emergency Protective Order (EPO)

The first type of protective order is an Emergency Protective Order. An Emergency Protective Order (EPO) is made at the scene by the police officer who telephones a judge to get consent to issue the EPO. EPOs only last for five (5) days. The court typically makes the order to prevent abuse if the victim is in immediate and present danger. This applies to potential domestic violence, stalking, child abuse, child abduction, and elder abuse crimes. If there is a child victim, a parent or guardian may seek the order on their behalf.

After the police officer gets permission from the court to issue the Emergency Protective Order (EPO) he or she prepares a written order and provides the victim and the suspect with a copy. The officer will also file the order with the court. Once the EPO is in place, law enforcement must take all reasonable steps to enforce this order. (Family Code §§ 6241, 6250, 6251, 6256, 6257, 6270, 6271, 6272, 6274; Penal Code § 646.91.)

If at the end of the five (5) day period covered by the Emergency Protective Order (EPO) a criminal case is filed, a Criminal Protective Order (CPO) can be sought from the judge who arraigns the defendant. If a criminal case has not been filed, the victim can file papers with the court to obtain a Civil Protective Order (CPO).

b. Criminal Protective Order (CPO)

A criminal court has the power to issue a protective order to protect victims of crime, witnesses, and their immediate family. The court can make this order to prevent a criminal defendant from contacting or intimidating witnesses and victims of crime through e-mail, telephone calls, or other people. The court may also use this power to modify existing protective orders, such as an Emergency Protective Order (EPO) issued by the investigating officer. (Penal Code § 136.2.)

If the defendant is arrested for, and charged with, a crime involving domestic violence a special domestic violence prevention order may be issued instead of a Criminal Protective Order.

c. Domestic Violence Prevention Order (DVPO)

If a victim of domestic violence needs a protective order because a criminal case has not yet been filed or is not going to be filed, the victim can get a Domestic Violence Prevention Order (DVPO) from the family law court. A Domestic Violence Prevention Order (DVPO) is used to help prevent domestic violence. To get a Domestic Violence Prevention Order (DVPO), a victim of domestic violence must fill out an application at the family law court. These applications are available in multiple languages. (Code of Civil Procedure § 185(b).)

Once the application for a Domestic Violence Prevention Order (DVPO) is filed it will be reviewed by a judge within 1-2 days. (Family Code § 6326.)

The Domestic Violence Prevention Order (DVPO) can prohibit abuse, exclude a person from a house or apartment, and prevent specific types of behavior. The Domestic Violence Prevention Order (DVPO) also prohibits the abuser from owning, possessing or purchasing a firearm. Additionally, the order may make an initial decision about child custody and visitation. (Family Code §§ 6300, 6320, 6320(b), 6321, 6322, 6322.5, 6323, 6324, 6325.) (Family Code § 6304.)

It is also important to remember that a victim of domestic violence may have a support person attend all family law and criminal proceedings, including the hearings for a Domestic

Violence Prevention Order (DVPO), where the victim will be in close proximity to the alleged abuser. (Family Code § 6303.)

d. Civil Protective Orders (CPO)

A victim may wish to obtain a Civil Protective Order (CPO) if a criminal case has not yet been filed or will not be filed or if the defendant failed to appear in court and a warrant was issued for his or her arrest. A Civil Protective Order (CPO) may be obtained by a victim through civil court. (Code of Civil Procedure § 527.6) If a criminal case has been filed and a Civil Protective Order (CPO) is required, the District Attorney's Office victim services advocate can help the victim fill out the required paperwork for a Civil Protective Order (CPO).

Protective orders obtained through civil court have two parts. First, the court issues a temporary restraining order (TRO). This is done without a court appearance by the defendant also known as the restrained party. After issuing a TRO, the court will set a date for a hearing. At the hearing, both sides can present evidence or information for or against a protective order. If the court grants an order at the hearing, it is called an Order After Hearing (OAH). The OAH is a protective order that lasts for up to three years. Once a protective order is issued the court clerk will provide the victim, also known as the protected party, with five (5) certified copies of the order. (Code of Civil Procedure § 527.6.) The protected party should keep the copies of these orders for their records.

4. Victims Of Crime Have The Right To Seek Financial Assistance And Restitution

a. General Overview

A victim should make sure to tell the first person who contacts him or her from the District Attorney's Office, and the victim services advocate eventually assigned to his or her case, about any economic losses suffered as a result of being a crime victim. He or she may be entitled to repayment of money lost, called restitution. (Cal. Const. Art. 1 Sect. 28(b)(13).) Restitution is paid by the defendant as part of his punishment for committing the crime.

The purpose of criminal restitution is to reimburse victims of crime for financial losses associated with the crime committed against them. Restitution is designed to restore victims of crime to the position they were in before the crime, or to compensate victims of crime for certain expenses that arise as a result of the crime. This occurs through court orders against the defendant.

Victim services advocates can also assist in helping the victim determine his or her loss and in providing information to the court about that loss. (Cal. Const. Art. 1 Sect. 28; Penal Code §§ 679.02(a)(8), 13835.5(a), 13835.5(b), 13852.2; Government Code §§ 13970-13973.) While a case is pending in court, California's Victim Compensation Fund may be able to assist with the reimbursement of some expenses. The police officer who investigated the crime committed may have already talked to the victim about restitution or provided him or her with information about his or her right to seek compensation from the Victim Compensation Fund. This information may have been provided to him or her on a card that lists the toll-free number for the Victims of Crime Program at (800)777-9229. If a victim did not receive this card, one will be provided to him or her by the Riverside County District Attorney's Office Division of Victim Services. (Penal Code §§ 679.08, 1191.21; Government Code § 13962.)

The Victim Compensation Fund was created to assist those who suffer injury, death, or damage in the course of a crime. Victims have a right to be provided with information about civil recovery and restitution. A victim services advocate from the Riverside County District Attorney's Office Division of Victim Services qualifies as an authorized representative to assist a victim in filling out and submitting his or her paperwork to the Victim Compensation and Government Claim Board. (Government Code § 13953(D)(1)(c).)

Victim Compensation and Government Claims Board (VCGCB) may grant a claim when it determines it will aid the person seeking compensation. This amount may include reimbursement of medical related expenses and mental health counseling. Outpatient mental health expenses should not exceed \$10,000.00. (Government Code § 13957.)

b. Applications for Assistance must be submitted within one year of the date of the crime

The application for assistance from the Victim Compensation and Government Claims Board (VCGCB) must be submitted within one (1) year of the date of the crime, or one year after the victim is 18 years of age, or one year from the time the victim knew of the injury. It is important to report any claims for losses as soon as possible. The Board, however, may extend the filing period in some limited instances. If there is an emergency situation that requires assistance, the Victim Compensation and Government Claims Board (VCGCB) may find that an emergency award should be granted to individuals when delaying compensation until complete and final consideration of an application would result in substantial hardship for the victim. (Government Code §§ 13952.5, 13953, 13955.)

c. The decision from the Board to provide assistance is determined within an average of 90 days and no more than 180 calendar days.

Once the victim's application is submitted to the Victim Compensation and Government Claim Board (VCGCB), an approval or denial of assistance is determined within an average of 90 calendar days but no later than 180 calendar days. There are instances where an application is automatically denied, such as when the victim participated in the crime. If the victim failed to cooperate in the apprehension and conviction of a criminal committing the crime, the application for assistance will also be denied. Convicted felons may not be granted compensation until discharged from probation or parole; these claims are not automatically denied but are placed on hold until the completion of the felon victim's probation or parole. A victim denied compensation, for any reason, may request a hearing to contest the recommendation. (Government Code §§ 13956, 13958, 13959, 13960.)

d. Direct restitution is awarded by the court.

Any restitution awarded during a criminal prosecution is considered a money judgment. It has the same effect as an award in a civil court case. This means that an order for criminal restitution has the same legal authority as a civil judgment.

When a criminal defendant is ordered to pay restitution and numerous other fines and a court has to determine which of a defendant's debts to repay or in what order the debts should be paid, the crime victim has a Constitutional right under Marsy's Law to have the restitution payments paid before civil fines, penalties, and other court charges. (Penal Code §§ 1203.1(a)(3), 1203.1d, 1214; Cal. Const. Art. 1 Sect. 28(b)(13).) Victims also have a right to every resource under the law to enforce these restitution orders and obtain payment from the defendant. This includes access to the defendant's financial records, wage garnishment, lien procedures, and information regarding the defendant's assets. (Penal Code § 1214.)

NOTE: More information about restitution is provided in the Sentencing portion of this manual.

5. Additional Rights Are Provided To Victims Of Domestic Violence During The Filing Phase

Due to the injuries typically associated with crimes of domestic violence, victims often ask if their healthcare coverage will be affected by admitting that they are a victim of abuse. The answer is, absolutely not. In fact, California law prohibits insurers from denying or modifying a contract of health insurance, because the applicant is a domestic violence victim. (Insurance Code §§ 676.9, 10144.2, 10144.3; Health and Safety Code § 1374.75.)

D. ARRAIGNMENT AND BAIL HEARINGS

1. General Overview

An arraignment is when the charges are formally presented to the criminal defendant in court. The Riverside County District Attorney's Office files a document, called a complaint, notifying the court and the defendant of the charges against him or her. At the arraignment, the defendant acknowledges the complaint by pleading guilty or not guilty.

If the defendant pleads not guilty, he or she is entitled to bail in all cases except offenses punishable by death. In some cases, instead of bail, the defendant may be eligible for release on his or her own recognizance, which is his or her written promise to appear in court at all future court dates. This is often referred to as an "OR" release. In cases where the defendant does not qualify for an OR release, bail is set in a predetermined amount for each type of offense. A bail hearing can be held to increase bail for the defendant based on the severity of the charge, any potential threat to the victim, and the possibility that the defendant will flee from prosecution. A bail hearing can also be requested by the defense to decrease bail if the defendant can show some justification for less bail. If there is a bail hearing requested by either side, the Riverside County District Attorney's Office will notify the victim so he or she may attend if he or she chooses.

<http://www.riverside.courts.ca.gov/>

2. The Safety Of The Victims And The Public Should Be The Court's Primary Concern When Setting Bail

Normally, bail is set according to preset guidelines that assign a bail amount based on the potential punishment for the crime the defendant is accused of committing. Before the court can change the predetermined amount of bail at a bail hearing, the court must explain why the change is appropriate. The safety of the victims and the public should be the court's primary concern. (Cal. Const. Art. 1 Sect. 28(b)(3); Penal Code §§ 1270.1, 1275.)

3. Upon Request, A Victim Of Crime Has The Right To Be Heard In Any Trial Or Appellate Court

Upon request, victims of crime also have the right to speak to the court about the defendant's bail before the court makes any changes. (Cal. Const. Art. 1 Sect. 28(b)(3).) A victim does not have to attend a bail hearing alone. He or she may bring a friend or family member for support. A victim services advocate from the District Attorney's Office will also be available for support. If the victim is not able to appear at the bail hearing, the victim can send someone to speak to the court on their behalf. This can be a friend, a family member, an attorney, the deputy district attorney assigned to the case, or a victim services advocate from the District Attorney's Office. (Penal Code §§ 868, 1102.6, 1191.1.)

4. **Additional Rights Are Provided To Victims Of Identity Theft**
a. **Victims of identity theft are entitled to a speedy determination of “factual innocence” by the court.**

If it is discovered at arraignment that the “defendant” is actually a victim of identity theft and has been wrongfully arrested for a crime someone else committed, the victim has additional rights. He or she is entitled to a speedy determination by the court that he or she was not the actual person who committed the offense. This is called a determination of “factual innocence.” Victims of identity theft are also entitled to receive information about the false types of information used, including copies of all records of applications filed by the criminal using the name of the victim. These documents must be provided without charge. (Penal Code §§ 530.5, 530.5(b), 530.6, 530.8.)

Note: Identity theft victims who provide a copy of their law enforcement reports to a consumer credit reporting agency are entitled to 12 months of free credit reports by that agency. (Civil Code § 1785.15.3.)

E. PREPARING FOR TRIAL

1. **A Victim Of Crime Has The Right To Refuse An Interview, Deposition Or Discovery Request By The Defense Investigation Team.**

The attorneys for both the prosecution and the defense often contact victims and witnesses to ask additional questions to prepare for trial. As part of this process, crime victims are often contacted by defense attorneys or defense attorney investigators. A victim has the right to refuse to speak to the defense attorney or defense investigator. At any point during the criminal case, from investigation to sentencing, the victim has the right to refuse an interview, deposition, or discovery request by the defendant, the defendant’s attorney, or any other person acting on behalf of the defendant. If the victim agrees to an interview he or she may set reasonable conditions for the interview. (Cal. Const. Art. 1 Sect. 28(b)(5).)

F. WHAT HAPPENS BETWEEN ARRAIGNMENT AND TRIAL?

1. **General Overview**

There are two types of cases in adult court, a misdemeanor and felony.

In Riverside County, misdemeanor cases have case numbers beginning with RIM, indicating a misdemeanor case out of the Riverside court; INM indicating a misdemeanor case in the Indio court; BLM indicating a misdemeanor case in the Blythe court; SWM indicating a misdemeanor case in the French Valley Southwest Justice Center; or BAM indicating a misdemeanor case out of the Banning court. Cases with BAM case numbers begin in Banning but are sent to Riverside court for trial.

A felony case involves a more serious crime. In Riverside County, felony cases have case numbers beginning with RIF, indicating a felony case out of the Riverside court; INF indicating a felony case in the Indio court; BLF indicating a felony case in the Blythe court; SWF indicating a felony case in the French Valley Southwest Justice Center; or BAF indicating a felony case out of the Banning court. Cases with BAF case numbers begin in Banning but go to trial in Riverside. If you are the victim of a felony, see Chapter 5(B).

2. Misdemeanors

a. Trial Readiness Conference (TRC)

If the defendant is charged with a misdemeanor, a Trial Readiness Conference, also referred to as a TRC, will be set after the defendant's arraignment. A TRC is a date where the attorneys appear in court, exchange discovery (information about the case), and try to negotiate a disposition of the case. If the attorneys cannot agree to a guilty plea they set a trial date. Cooperative victims of crime, and witnesses, do not typically have to appear at TRC. However, a victim always has the right to request notification of the TRC date and to attend the TRC if he or she chooses. If a victim is present at the TRC and wishes to address the court about a trial date or a continuance granted by the court to delay the trial, they may do so. (Cal. Const. Art. 1 Sect. 28(b)(8).)

3. Felonies

a. Felony Settlement Conference (FSC)

If the defendant is charged with a felony, a Felony Settlement Conference, also referred to as an FSC, will be set after the defendant's complaint arraignment. The FSC is a court date where the attorneys appear in court, exchange discovery (information about the case), and try to negotiate a disposition of the case. If the attorneys cannot agree to a guilty plea they set a preliminary hearing date. Cooperative victims and witnesses of crime do not typically have to appear at FSC. However, a victim always has the right to request notification of the FSC date and to attend the FSC if he or she chooses.

b. Preliminary Hearing

(1.) General Overview

In a felony case only, if the defendant does not plead guilty after the complaint arraignment and the felony settlement conference, then the case goes to preliminary hearing. A preliminary hearing is a court hearing where a judge listens to witnesses testify about the charged crime(s). At the end of the hearing, the judge determines if there is enough evidence for the case to go to trial. If the judge determines that sufficient evidence exists for the case to go to trial, then he will "hold the defendant to answer" to the charges and set a date for trial.

(2.) *A defendant must be brought before the court for a preliminary hearing within 60 days of arrest, but there are some exceptions.*

A defendant must be brought before the court for a preliminary hearing within 60 days of arrest. However, there are some exceptions to this time requirement. The defendant can waive the right to preliminary hearing within the 60 day time period. Additionally, the court can delay the time for preliminary hearing by one (1) day to accommodate the special needs of a child witness ten years of age or younger or of a dependent person. (Penal Code § 861.5.)

(3.) *The District Attorney's Office Division of Victim Services will provide notice to victims/ witnesses of changes in court dates*

In some instances the victim of the crime and other witnesses will be issued a subpoena by mail or delivered in person to direct them to appear in court to provide testimony for the preliminary hearing. There will be times when a subpoena is issued but the court date changes

and testimony is moved to a different day or time. If they are not otherwise needed for court, victims of crime and witnesses have the right to be notified that a court proceeding to which they are subpoenaed will not proceed as scheduled. The Riverside County District Attorney's Office Division of Victim Services will provide notification to witnesses of changes in court dates. (Penal Code §§ 679.02(a)(1), 13835.5(b)(4).)

In each case the Riverside County District Attorney's Office Division of Victim Services will assign a victim services advocate to guide victims and witnesses through the criminal prosecution process, help arrange transportation, answer questions, help set up restitution, and provide various other types of support. When a victim services advocate is assigned to a case, he or she will provide the victim with a phone number where he or she can be reached to answer any questions.

The victim or witness may call their victim services advocate to find out if any dates have been changed for their testimony. If the victim services advocate is informed by the deputy district attorney assigned to the victim's case that there has been a change, the victim services advocate will contact the victim or witness first.

(4.) *Victims and witnesses called to testify in court have additional rights.*

If called to testify at preliminary hearing or later at trial, victims and witnesses are entitled to witness protection. This includes a waiting area separate from defendants. (Penal Code § 868.6.) Victims of crime may also obtain assistance in seeking a protective order and assistance in obtaining safe transportation to court. (Penal Code § 13835.5(b)(7), See Protective Orders.) Subpoenaed witnesses may also be entitled to receive fees and mileage. Notice of this right will appear on the subpoena. (Penal Code §§ 679.02(a)(7), 1329, 1329.1.)

A subpoenaed victim or witness should not be concerned about taking time off from work to attend a court hearing. Employers cannot discipline an employee for taking time off to comply with a court order or subpoena to serve as a witness in any judicial proceeding. (Labor Code § 230(b).) Employers must allow victims of crime or "immediate family members" to be absent from work to attend judicial proceedings related to that crime. "Immediate family members" are defined as a spouse or parents, children and siblings related by blood or marriage. The employee may use paid vacation time, personal leave, sick leave, compensatory time off, or unpaid leave. The employer may not discriminate against an employee who is absent for this reason. (Labor Code § 230.2.)

c. Information Arraignment

(1.) *General Overview*

After the preliminary hearing on felony charges, an "information" is filed. Like the complaint, an information notifies the court and the defendant of the charges filed. The defendant is arraigned on the information to acknowledge the charges. At the information arraignment, the defendant again enters a plea of guilty or not guilty. If the defendant continues to plead not guilty a date is set for the case to go to trial.

(a.) Victims have the right to a speedy resolution of their case.

A felony case must be brought to trial within 60 days of the arraignment on the information unless the defendant requests additional time or the deputy district attorney can

show “good cause” or legal justification for a continuance in the case. (Penal Code §§ 1050, 1050(g).)

Although there are often continuances that result in a criminal case taking more than 60 days to go to trial, victims of crime do have a right to the speedy resolution of their case. (Cal. Const. Art. 1 Sect. 28(b)(9).) Certain criminal cases with sensitive victims or witnesses have priority, such as: cases where minors are material witnesses; cases where minors are victims of crime; cases with victims of crime or witnesses over the age of 70; and sexual assault and child abuse cases. (Penal Code §§ 679.02(a)(10), 1048, 1048.1, 1050(a).)

G. WHAT HAPPENS IF THE DEFENDANT PLEADS GUILTY?

1. Victims Of Crime Have The Right To Be Heard, Upon Request, At Any Proceeding, Including Pleas.

All victims of crime have the right to be heard, upon request, at any proceeding, including: any delinquency proceeding involving a post-arrest release decision; plea; sentencing; post-conviction release decision; and any proceeding in which a right of the victim is at issue. (Cal. Const. Art. 1 Sect. 28(b)(8), Penal Code § 679.02(a)(12).) If a victim wishes to be present at the plea hearing, or any hearing along the course of the case, all he or she has to do is contact the victim services advocate or the deputy district attorney prosecuting the case and they will ensure that the victim is notified about the time and place of the proceedings and given the opportunity to speak if he or she wishes to do so.

H. PLEA AGREEMENTS

1. General Overview

The District Attorney’s Office may offer the defendant the opportunity to plead guilty in exchange for a lesser charge and/or a lesser sentence. If the defendant reaches a plea agreement with the District Attorney’s Office, he or she does not go before a jury to face possible conviction on all of the charges. In the event that a defendant accepts a plea agreement, the next step in the criminal process is the **SENTENCING HEARING**.

a. Restitution as a result of a plea

Generally, a defendant cannot be **required** to pay restitution for a charge that was dismissed. However, as part of a plea bargain, a defendant may be required to pay restitution for crimes that were dismissed. (Penal Code § 1192.3.)

I. JURY TRIAL (IN ALL CASES, MISDEMEANOR AND FELONY)

1. General Overview

If a plea agreement is not reached the case goes to trial. The trial is held in Superior Court in front of a jury, or a judge, if both sides waive their right to a jury trial. At jury trial, the deputy district attorney and defense attorney pick a jury through a process called “voir dire” where they question people to determine who is best suited to serve as a juror.

Once a jury is selected the deputy district attorney gets to present his or her evidence first. The deputy district attorney will start with an opening statement. An opening statement is the deputy district attorney’s first opportunity to tell the jury the facts of the crime. After the opening statement, the deputy district attorney will call the victim and other witnesses to testify. This testimony is used by the jury to determine what happened and to decide if the defendant

committed a crime. Once the deputy district attorney finishes with all the witnesses it is the defense attorney's turn to present evidence.

Defense attorneys are not required to make an opening statement or to call any witnesses, but are allowed to do so if they choose. After the defense attorney presents the defense case, both attorneys have a chance to argue the case to the jury. The closing argument is the deputy district attorney's opportunity to recap what happened in the trial and apply those facts to the law to explain to the jury why the defendant is guilty. The victim of the crime has the right to be present for the closing argument.

2. Sex Crime, Child Abuse, Domestic Violence, And Elder Abuse Victims Have Additional Trial Rights

a. **A request to exclude the public can be made in cases involving a child under 16 or a mentally impaired sexual assault victim.**

During the trial, in order to establish evidence of sexual assault, child abuse or sexual molestation for the jury, it may be necessary for the child victim to testify. If the victim is a child under the age of 16, the deputy district attorney trying the case may ask the court to exclude the public during the child's testimony. This request to exclude the public can also be made in cases involving a cognitively impaired sexual assault victim or if the life of a witness is subject to substantial risk. (Penal Code §§ 859.1, 868.7.) In order to fulfill this request the court will hold a hearing to determine whether the testimony can occur in private, as opposed to a public, setting. (Penal Code § 859.1.)

b. **Additional special accommodations for child, elderly, and sexual assault victims.**

If they are called to testify, victims of elder abuse, sexual assault, and child abuse can receive special treatment during the court proceedings. This includes rest periods during examination, the presence of support persons in court, two support persons present when they testify, the removal of the judge's robe to make the hearing less threatening, videotaping the preliminary hearing testimony, and the possibility of offering testimony via closed-circuit television. (Penal Code §§ 868.5, 1347.5.)

In certain sex crimes, domestic violence or child abuse cases, if the victim is under age 11 or has some type of disability, the court will take special precautions to protect the victim. This includes limiting questioning, preventing coercion, and taking frequent breaks. (Penal Code § 868.8.)

c. **A defense attorney cannot ask any questions about a victim's sexual history without a special hearing.**

Victims of sexual assault are often concerned that their sexual history will play a role in the sexual assault trial. Questioning a victim of sexual assault about their past sexual conduct is very uncommon. Before the defense can ask questions about the victim's past sexual conduct, the defendant must make a written motion to the court and the district attorney to explain why evidence of the victim's past sexual conduct is relevant. A defense attorney cannot ask any questions about a victim's sexual history without this hearing. (Evidence Code § 782; Penal Code § 1127(d).)

d. **A victim of sexual assault or domestic violence may not be held in contempt for refusing to testify**

Victims of sexual assault and domestic violence cannot be held in contempt of court and arrested for refusing to testify about the crime. (Code of Civil Procedure § 1219.) However, if served with a valid subpoena, victims must come to court.

J. THE JURY VERDICT

1. General Overview

When the deputy district attorney and defense attorney are done presenting the case to the jury, the jury will meet in private to decide if the defendant is guilty or not guilty based on all of the evidence presented during trial.

As with all court proceedings, victims of crime have the right to attend the verdict reading and, upon request, victims will be notified by the District Attorney's Office of the time and place set for the reading of the verdicts.

2. A Guilty Verdict

If the jury finds the defendant guilty, a date for sentencing is set.

a. Death Penalty Cases

In a death penalty case, if the jury decides that the defendant is guilty of committing the murder, there is a second phase of the trial called the penalty phase. In the penalty phase, the jury decides whether the defendant will be sentenced to life in prison without the possibility of parole or if the defendant will be executed for his or her crime.

3. A Hung Jury

If the jury cannot reach a decision this is called a "hung jury". After a hung jury the deputy district attorney may dismiss the case, retry the case, or reopen negotiations to try and reach a plea agreement. Upon request, a victim is entitled to talk with the District Attorney's Office after a hung jury and explain whether or not they would like to see the case prosecuted again before the District Attorney's Office decides how they will proceed. (Cal. Const. Art. 1 Sect. 28(b)(4).)

4. A Not Guilty Verdict

If the jury finds the defendant not guilty, he or she is released. When the defendant is found not guilty, this ends the criminal case against him or her. However, the victim may choose to pursue civil damages against the defendant. The filing of a civil lawsuit is handled through a private civil litigation attorney and the victim is then referred to as the "plaintiff" in the case. The Riverside County District Attorney's Office only handles the criminal aspect of the crime. Filing a civil lawsuit against the defendant allows the plaintiff to get financial reimbursement for their losses if it is found that the defendant intended to harm the plaintiff's physical, mental, emotional or financial well being through his or her actions. A defendant never receives jail or prison time for their wrongful actions in a civil case.

K. WHAT HAPPENS BEFORE THE SENTENCING HEARING?

1. Felonies

a. Pre-sentence Report

If the defendant is found guilty a probation officer is assigned to complete a pre-sentence report for the court.

The court uses this report to decide what sentence to give the defendant. To compile the probation report, the probation officer reviews the defendant's criminal, medical, educational, family, marital, employment records, and interviews with the defendant. The probation officer will also contact the victim to discuss the physical, mental, emotional, and financial effects of the crime on the victim.

The pre-sentence report is created utilizing the victim's statements, the police reports, and the review of the defendant's background. The probation officer looks at this information to determine if there are any factors that could increase or decrease the length of the prison or jail term the defendant should serve for the crime committed.

Examples of factors that could increase the term would be past criminal history or drug and/or alcohol abuse.

Examples of factors that could decrease the term would be no criminal history, strong community and family ties, and steady employment. (Penal Code § 1191.15.) Once the probation officer's pre-sentencing report is complete, it must be made available for the victim of the crime to review. This is done through the District Attorney's Office. The probation officer must also inform the victim if the defendant is going to receive any "good time or work credits." These are legal credits which may reduce the actual time a defendant spends in custody. (Penal Code § 1191.3(b).)

b. The Basics of Felony Sentencing

Historically, felony prison sentences were only served in California State Prisons, and for many felony crimes, this is still the case. However, on October 1, 2011, California Assembly Bill 109 (AB 109) went into effect and amended California's sentencing statutes (Penal Code § 1170(h)) to allow certain non-violent, non-serious, and non-sex-offenders to serve their prison sentence in County Jail rather than State Prison. This change in the law is often referred to as "Realignment" or "AB 109."

The judge may sentence these "realignment" offenders, or those offenders who qualify to serve their prison sentences in County Jail rather than State Prison, to serve either their entire prison sentence in County Jail (Penal Code § 1170(h)(5)(A)) or the judge may "split" the sentence between custody time and a "mandatory supervision" period (Penal Code § 1170(h)(5)(B)) where the offender is out of custody and supervised by a probation officer.

If the defendant is not a "realignment"-eligible offender, he will serve his entire prison sentence in State Prison rather than County Jail.

c. Upon request the victim has the right to speak to the court prior to the defendant's sentencing.

In addition to speaking with the probation officer, upon request, a victim will have the opportunity to speak to the court prior to the defendant's sentencing. A victim can make a statement orally or in writing about how the crime has affected him or her. This is called a victim impact statement.

d. Victims of crime with defendants sentenced to prison have additional rights.

Before a defendant is sentenced to a term of imprisonment (whether the sentence is served in state prison or county jail), the victim has a right to submit a statement in aggravation

or mitigation to dispute any facts in the probation report. This is typically filed four (4) days before the sentencing hearing by the deputy district attorney handling the case. This means that the victim may agree or disagree with the probation report and provide information to support their opinion. (Penal Code § 1170(b).) Any person can inspect or review the probation report within 60 days following the sentencing date. (Penal Code § 1203.05.)

e. Victims of sexual assault and child molestation have additional rights.

If the defendant was convicted of an offense that requires him or her to register as a sex offender under Penal Code section 290, the court will refer the matter to the probation officer for the purpose of obtaining a report on the results of the State-Authorized Risk Assessment Tool for Sex Offenders. The court will then consider this report in determining the appropriate sentence. In sentencing the defendant, the court may consider any information that could have been included in a probation report if the case is not referred to the probation officer. (Penal Code § 1203.)

2. Misdemeanors

If a defendant is convicted of a misdemeanor, the court may either refer the matter to the probation officer for an investigation and a report, or hand down a conditional sentence.

L. SENTENCING HEARING

1. All Victims Of Crime Have A Right To Be Present At Sentencing And May Address The Court

Before the defendant is sentenced by the judge, at the sentencing hearing, the victims of crime have the opportunity to speak to the Court concerning his or her view of the crime, the defendant and restitution. These oral statements to the court can also be recorded for future use at parole hearings. (Penal Code §§ 679.02(a)(3), 679.03(a), 1191.1, 1191.15, 1191.16; Cal. Const. Art. 1 Sect. 28(b)(8).) After the victim speaks both attorneys have the opportunity to address the court. At the conclusion of argument, the court will sentence the defendant. In addition to the time for probation, jail or prison, the court will also order the defendant to pay several fines and, where appropriate, victim restitution.

The family members of victims also have a right to be present at sentencing and at their request will be notified by the District Attorney's Office of the time and date for the hearing. (Penal Code § 1191.1)

NOTE: For capital offenses (death penalty), a jury may be used to help determine sentencing and the victim or their representatives may have to testify.

2. Fines And Victim Restitution

a. General Overview

The court is required to order both a standard restitution fine and the specific amount of actual restitution to the victim at the time of sentencing. (**SEE RESTITUTION**.) The court must order full restitution absent very extraordinary circumstances. If the victim's loss is undetermined at the time of the sentence, the court can keep jurisdiction, or power, over that determination. If the court fails to include the restitution order, the Riverside County District Attorney's Office, the victim, or the court (on its own motion) can ask to have the sentencing corrected. (Penal Code §§ 1202.4, 1202.46.)

If a defendant is placed on probation, the court may order the defendant to pay restitution as a term of that probation. Any restitution paid under this term of probation shall be sent to the probation department. The probation department will send that amount to the victim within 45 days. If the payment is less than \$50.00, the probation department has 180 days to forward the payment to the victim. The restitution amount may include interest. (Penal Code § 1203.1(b), 1214.5.)

California Department of Corrections and Rehabilitation (CDCR), the department in charge of the prisons, may take up to 50% of an inmate's wages in order to pay direct restitution to the victim and restitution fines. (Title 15 Admin Code, Sect. 3097(G).) If a defendant is awarded fees in a civil lawsuit against a correctional facility or corrections official, those funds may be used to satisfy outstanding restitution orders. (Penal Code § 2085.5.)

Convicted felons are not allowed to receive financial gain from books, film or other media based on the story of the felony for which they were convicted. The victims or the victims' families can collect any monies earned from these projects. If any publication is created, the monies made are subject to a legal trust. The money in the trust will be used to repay any restitution owed to the victim with any leftover money going to the general Restitution Fund. (Civil Code § 2225.)

b. Some instances in which victims are entitled to restitution:

(1.) Victims of sex crimes

Defendants who sexually assault a minor will be ordered to pay costs of medical and psychological treatment if they are granted probation. (Penal Code § 1203.1g.)

(2.) Victims of elder abuse

When the defendant is convicted of assault, battery, or assault with a deadly weapon on a victim age 65 or older, the court, as a condition of probation, shall order the defendant to pay restitution for the costs of medical or psychological treatment incurred by the victim. (Penal Code § 1203.1j.)

(3.) Victims of domestic violence

At sentencing, the court may order restitution to domestic violence victims for all losses and out of pocket expenses. These expenses include loss of earnings, medical expenses and the cost of temporary housing. The court can also order the defendant to reimburse private and public agencies for the cost of providing services to the victim as a result of the abuse. (Family Code § 6342.)

(4.) Victims of crimes at work

The victim of a crime involving violence in the workplace is entitled to compensation for injuries including psychological injuries that are the result of the crime. (Labor Code § 3553.)

M. HOW DO I GET MY PROPERTY RETURNED AFTER TRIAL?

Victims have the right to the prompt return of property **when it is no longer needed** as evidence. If property is taken during a crime and recovered by law enforcement, the victim has a right to the return of that property. (Cal. Const. Art. 1 Sect. 28(b)(14).)

The victim should notify his or her victim services advocate at the Riverside County District Attorney's Office Division of Victim Services that there is property that they would like to have returned. The victim services advocate will then work with the deputy district attorney assigned to the case to retrieve the items and get these back to the victim.

N. EXECUTIONS (DEATH PENALTY)

1. Upon Written Request, The Victim's "Immediate Family" May Be Present At The Defendant's Execution

The family of a murder victim whose killer is sentenced to death, may be present for the execution. To do so, they must ask their victim services advocate about filing a written request with the prison warden. If the victim's immediate family files a written request to be present at the defendant's execution, they have a right to be noticed by the warden 30 days prior to the execution or as close to that date as possible. (Penal Code § 3605.)

O. VICTIMS OF CRIME HAVE THE RIGHT TO BE NOTIFIED OF THE DEFENDANT'S IMPRISONMENT AND RELEASE

1. Jail, Prison, or Mandatory Supervision

a. General Overview

If the defendant's sentence involves county jail or state prison incarceration, after the sentencing hearing the defendant is moved to the proper facility to serve his or her sentence. Upon completion of his or her sentence, the defendant is either released with no further supervision, released on probation (for defendants granted a probationary term), released on mandatory supervision (for "realignment"-eligible offenders serving their felony sentence in county jail), or released on parole (for defendants serving their felony sentence in state prison).

Special rules apply to defendants released on parole. If the defendant is serving an indeterminate life sentence (for example, 15 years to life), he or she will be eligible for parole, or release after completing the first portion of the life sentence (for example, 15 years of the 15-to-life sentence). Before the defendant can be released, a parole hearing will occur and the victim will be notified and given the chance to speak. This may include two members of the victim's immediate family or two representatives designated by the victim. The parole board may limit the number of persons present. Statements by a victim may also be submitted in writing or by electronic means. The victim may also appear at a parole hearing by video-conferencing. Prisoners do not have a right to ask questions to those who are present at the hearing. (Penal Code §§ 679.02(a)(5), 1191.15, 1191.16, 3041.5(b)(3), 3041.5(c), 3043, 3043.25, 3043.2.)

For the victims of crime whose case resulted in the defendant being given a determinate sentence (for example, 6 years state prison) the defendant will be paroled prior to the end of his or her sentence in most instances.

b. Crime victims must keep their contact information up-to-date to insure notification of the defendant's release, escape, or participation in a work furlough program.

To notify a victim about the defendant's release, the victim's contact information must be up-to-date. All victims of crime are responsible for requesting and submitting the paperwork to receive notice of hearing dates and prisoner release with up-to-date contact information. This paperwork can be obtained from the Riverside County District Attorney's Office Division of

Victim Services. (Penal Code §§ 679.03(a), 3058.) Upon request, a victim services advocate can also assist victims of crime in filling out and submitting the necessary forms.

Additionally, a defendant sent to state prison, may participate in a work release program that allows him or her to spend time during the day outside of the prison. The victim has the right to be notified of the defendant's release to this work furlough at least 60 days prior to placement. Also in the unlikely event that the defendant escapes, the victim must be given immediate notification. Consequently, it is important that the victim's contact information is up-to-date so that they are notified prior to the defendant's release. (Penal Code §§ 679.02(a)(6), 11155.)

c. Crime victims have the right to be informed of any modification of sentence that a defendant receives

All victims of crime have the right to be notified in the unlikely event that the defendant's sentence is modified due to cooperation with the prosecution. On occasion while in prison, the defendant may be called to testify in a case that he or she has information about. In that circumstance the defendant is referred to as an "in-custody informant." In exchange for the defendant testifying in the case, the prosecution may offer the defendant a benefit, such as, a reduction of prison time. The prosecution must notify the victim of the defendant's status as an in-custody informant and what benefit the defendant is receiving before the defendant is called to testify. (Penal Code § 1191.25.)

2. Victims Of Stalking Have Additional Rights

Inmates convicted of offenses involving stalking typically are not released on parole within 35 miles of a victim's actual residence or place of employment. In order to ensure this protection is provided, the victim or witness must file the appropriate form with California Department of Corrections and Rehabilitation (CDCR). The California Department of Corrections and Rehabilitation (CDCR) will contact the victim and talk about the potential threat the defendant may pose on release. If California Department of Corrections and Rehabilitation (CDCR) finds that there is a need to protect the safety and well being of the victim then they will ensure that the defendant is not released on parole within 35 miles of a victim's actual residence or place of employment. (Penal Code § 3003.)

3. Victims Of Sex Crimes Have Additional Rights

The Board of Parole Hearings, California Department of Corrections and Rehabilitation (CDCR), or the sheriff will notify victims of crime of the release of those defendants convicted of child abuse, child sex crimes, and domestic violence. This notice will occur at least **60 days** prior to the defendant's release and never later than the day the defendant is actually released. (Penal Code §§ 679.02(a)(13), 679.02(a)(14), 3058.65.) At the victim's request, a paroled sex crime defendant will be prohibited from contact with the victim as a term of parole. (Penal Code § 3053.6.)

If a defendant designated as a sexually violent predator is released, the victim and certain witnesses have a right to be informed, upon request, of any hearings to determine the defendant's eligibility for release or extension of the defendant's commitment. The victim is entitled to additional notice of the community where the defendant will be released if it is within the same county or within 100 miles of the residence of the victim or witness. (Welfare and Institutions Code § 6609.3.)

4. Victims Of Domestic Violence Have Additional Rights

Upon the victim's request, the sheriff or CDCR will give **15 days** notice to the victim prior to the release of the defendant who is in jail or prison for stalking or felony domestic violence. Notice will also be given to the victim if the defendant disappears while on parole or if the defendant changes residences. Victims of crime must provide up-to-date contact information to be notified. Victims can keep their contact information updated using forms provided by the Riverside County District Attorney's Office Division of Victim Services. (Penal Code § 646.92.)

P. WHAT IF THE DEFENDANT WAS SENTENCED TO A MENTAL HEALTH FACILITY?

1. Upon Request, Crime Victims Have The Right To Be Informed Of Any Hearing To Determine The Defendant's Release On Outpatient Status.

In addition to county jails and state prisons, there are other institutions a defendant can be placed in. A defendant may be sent to a mental health facility because he or she was found mentally incompetent to stand trial or not guilty by reason of insanity. There are instances where these mentally incompetent defendants are released on outpatient status. Upon request, the victim has a right to be informed of any hearing to determine the defendant's release on outpatient status. (Penal Code § 1603.)

Q. IF YOUR CASE IS APPEALED, YOU WILL MAY CONTACTED BY THE DISTRICT ATTORNEY'S OFFICE TO DISCUSS YOUR ADDITIONAL RIGHTS.

If the defendant appeals his conviction, this means he or she is asking another court to review what happened at the trial and determine if any legal errors occurred. The Attorney General's Office is the prosecuting agency (like the District Attorney's Office) who responds to the defendant's appeal in felony cases. Provided the victim of crime has given current contact information to his or her victim/ witness advocate he or she may be contacted by the Attorney General's Office when a defendant files an appeal. After the initial notification that the case is on appeal, upon request, the Attorney General's Office will keep the victim informed about the status of the appeal.

R. SPECIAL RULES FOR CASES INVOLVING JUVENILE OFFENDERS

1. Juvenile adjudication investigation

Crimes committed by juveniles also fall into the categories of misdemeanors or felonies. As with adult offenders, law enforcement responds to the scene of a reported incident and conducts an investigation of the potential crime. However, there are additional steps taken with juvenile offenders prior to the decision to file charges with the District Attorney's Office.

2. Probation Screening Intake

After determining a crime has been committed by a juvenile, law enforcement refers the juvenile offender to the county probation department. Probation officers decide whether or not to turn the case over to the District Attorney's Office based on the severity of the crime and/or

the number of prior offenses of the juvenile. It is the probation department's responsibility to determine whether the juvenile will remain under the supervision of a juvenile probation officer, be processed in juvenile hall, or be referred to the District Attorney's Office for the filing of formal charges. The document used to charge a juvenile with an offense is called a petition.

a. Informal Settlement

First-time, non-violent, juvenile offenders are often given informal supervision through the probation department. As a part of informal supervision, juveniles are typically required to participate in counseling sessions, educational programs, community service, and/or mediation programs. Juveniles may be ordered to pay restitution to the victim as part of an informal settlement. (**SEE RESTITUTION IN JUVENILE CASES**) Juveniles are required to begin their informal supervision within 60 days of the order. Informal supervision does not last longer than six months. If the juvenile fails to follow the orders of the informal supervision, his or her case will be reviewed by the District Attorney's Office for refile of the petition. (Welfare and Institutions Code § 654.)

b. Juvenile Petition Filed

Another option when dealing with juvenile offenders, is to handle the matter in juvenile court. Juvenile court is different from adult court in that there are several alternatives to detention in a Youth Authority facility (Youth Authority is like prison for juveniles). Alternatives include home placement, out-of-home placement, youth camps or probation. The probation department is responsible for submitting the petition to the District Attorney's Office.

(1.) The victim of crime has the right to be informed of the outcome of the case within 60 days of the final outcome.

When a petition has been filed, the probation department will notify the victim of the charges, his or her rights and the right to be informed of the outcome of the case. If requested, the probation department will notify the crime victim within **60 days** of the final outcome. (Welfare and Institutions Code § 742(a).)

c. Adult Court

The District Attorney's Office may directly file a case against a juvenile in adult court if the juvenile is 14 years of age or older and is charged with first degree murder with special circumstances or attempted first degree murder. This may also apply to a juvenile who is 14 years of age or older who is charged with certain sex crimes. (Welfare and Institutions Code § 602(b).)

3. Detention Hearing

A juvenile's detention hearing is similar to an adult's arraignment hearing. The detention hearing decides whether the juvenile will remain housed in juvenile hall or if he or she may be released to his or her parents, placed under home supervision, or detained in a non-secure facility like a foster home.

However, unlike an arraignment hearing, there is no option for a juvenile to post bail to be released. All decisions regarding detention are based on the probation officer's report, any

concerns for the safety of the juvenile, and/or any concerns for the safety of persons or their property.

4. Pre-trial Proceedings

Before the jurisdictional hearing, the deputy district attorney and the defense attorney will meet to review the case. This includes exchanging discovery (evidence and information about the case). They will also determine if there is any special reason as to why the trial should be closed to the public or moved to adult felony court.

a. Open or Closed Hearing

Juvenile cases are closed to the public. This means that no person except the parent, guardian, or relative of the juvenile is allowed to be present at any court proceeding unless that person is a victim or witness in the matter. A judge may decide that other persons have a direct interest in the case or the work of the court. These people will also be admitted to the hearing at the judge's discretion. The juvenile or his or her parent may also make a request to allow additional persons to be present during the hearing. (Welfare and Institutions Code §§ 675 and 676.)

f. Fitness Hearing (Welfare and Institutions Code § 707.)

When the petition is initially filed with the District Attorney's Office as a juvenile matter, the reviewing deputy district attorney may determine that the juvenile offender should be tried as an adult. Crimes that may qualify a juvenile for adult court include use of a firearm while committing a felony and/or any offense punishable by life in prison or death if committed by an adult. The severity and sophistication of the crime committed and the juvenile's delinquent history are also taken into consideration.

In order for a juvenile case to be sent to adult court, the District Attorney's Office has to request that a fitness hearing be held. The fitness hearing is like the Preliminary Hearing in adult felony cases. The District Attorney's Office must go in front of a judge and explain why the juvenile should be tried as in an adult criminal court. The judge will determine if there is reasonable cause to try the juvenile as an adult. If the judge determines that the juvenile will be tried as an adult, the remainder of the trial and court appearances will occur in adult court. (**SEE ADULT FELONY COURT**) If the judge or magistrate determines that the juvenile should be tried as a juvenile, all further proceedings will occur in juvenile court. (**CONTINUE TO JURISDICTIONAL OR ADJUDICATION HEARING**)

(1) *The victim has the right to obtain the court documents from the juvenile's "fitness hearing."*

Under these circumstances, the victim has a right to obtain copies of the charging petition, the minutes of the proceedings, and orders of adjudication and disposition of the court contained in the court file. (Welfare and Institutions Code § 656.2(c).)

5. Jurisdictional or Adjudication Hearing

The jurisdictional or adjudication hearing in juvenile court is similar to the jury trial in an adult court. However, a juvenile's jurisdictional hearing is only heard before a judge. There is no jury involved. In a jurisdictional hearing, the prosecution must prove beyond a reasonable

doubt that the juvenile committed the offense for which they were charged. A juvenile is not found “guilty” or “not guilty” at a jurisdictional hearing. If the juvenile is found to have committed the offense then the petition is “sustained.”

6. Disposition or Sentencing Hearing

The juvenile court shall consider all relevant and material evidence, the juvenile’s age, the circumstances and the severity of the offense committed, and the juvenile’s previous delinquent history when determining the judgment and order to be made in a case where the petition filed against the juvenile has been sustained (the same as a guilty verdict in adult court).

As previously stated, the goal of the juvenile justice system is rehabilitation of offending juveniles. Minors under the jurisdiction of the juvenile court as a consequence of delinquent behavior shall, in keeping with the interests of public safety and protection, receive care, treatment, and guidance which is consistent with his or her best interest, holds him or her accountable for his or her behavior, and is appropriate for his or her circumstances. The guidance may include punishment that is consistent with rehabilitation. (Welfare and Institutions Code § 202(b).)

a. Sentencing in Juvenile courts

(1.) Victims of crimes committed by juveniles have a right to be notified of the disposition (sentencing) date of a juvenile case and to be present and make a victim impact statement.

Victims of crimes committed by juveniles have a right to be notified of the disposition (sentencing) date of a juvenile case and to be present and make a victim impact statement. The probation department has a duty to notify the victim of the right to make a statement. The probation officer must include that statement in the social study report (the juvenile version of a pre-sentence or probation report) presented to the court. The court must consider the statement prior to making a disposition. (Penal Code § 679.02(a)(4), Welfare and Institutions Code §§ 656.2(a & b), 706.)

7. Restitution in Cases Involving Juvenile Defendants

Juveniles who are found to have committed offenses will be ordered to pay restitution. These orders are enforceable as civil judgments. (Welfare and Institutions Code §§ 729, 730.6.) The victim must request the collection and payment of restitution and provide a current address to the court. The request must be made within **one year** after the ward is discharged for a victim to receive payments collected on behalf of the Youth Authority. This applies even to adults housed in a juvenile facility. (Welfare and Institutions Code §§ 1752.81, 1752.82(d).) The Division of Juvenile Justice may deduct up to 50% of an imprisoned juvenile offender’s wages to satisfy restitution. (Welfare and Institutions Code § 1752.82.)

If the court orders that the juvenile offender reimburse the victim for any loss, the victim will be notified of that order within **60 days**. The notice will include the name and address of the juvenile, the amount and terms of the reimbursement, the offenses proven, and the names and addresses of the juvenile’s guardian or parent. (Welfare and Institutions Code §§ 729.5, 730.7, Civil Code §§ 1414.3, 17141.1.) Parents of juveniles are jointly and severally responsible for this reimbursement or “restitution.” This means that both parents bear the responsibility for full payment of any restitution. (Welfare and Institutions Code § 730.7.)

If the injury to person or property is the result of the discharge of a firearm by a minor, the parents or guardian having custody and control of the minor will be held financially

responsible, if the parent permitted the minor to possess the firearm or left the firearm in a place available to the minor. (Civil Code § 1714.3.)

8. Imprisonment and Release

In cases involving juveniles, if the defendant is adjudicated delinquent (found guilty) then he or she may be placed on probation, or taken into custody to serve time at the California Youth Authority.

The Youth Authority is like prison for juveniles. The victim has a right to be present at any hearing to consider the release of the juvenile from the Youth Authority or their release on parole. Upon request by the victim, the Division of Juvenile Justice will provide **30 days** written notice to the victim of any hearing to consider releasing the inmate. The victim may appear at the hearing and may make a statement or submit a written or recorded statement to the parole board. The victim may bring a support person with him or her. If the victim is unable to attend, two support persons may attend to provide the victim impact statement. (Welfare and Institutions Code § 1767.)

S. VICTIMS HAVE THE RIGHT TO BE INFORMED OF THEIR RIGHTS

Victims have a right to be informed of their rights. The Division of Victim Services at the Riverside District Attorney's Office exists to provide information to victims of crime. They can be contacted at 951-955-5450.

III. QUICK SUMMARY CHARTS OF VICTIM RIGHTS

A. VICTIM RIGHTS IN MISDEMEANOR CASES

Stage of Process	Victim's Rights
Investigation of potential crime	<ul style="list-style-type: none"> • The right to keep information from becoming public record or to limit the public's access to that information. • The right to refuse to speak with any of the defendant's investigation team. <u>This applies throughout the process.</u> • The right to see police reports on their case. • Sexual assault and child molestation victims have the right to a professional exam, a counselor and a support person, pregnancy, and venereal disease testing, and the right to know any results from the suspects testing, if applicable. • Domestic Violence victims are entitled to necessary emergency assistance, may be provided with an Emergency Protective Order, will receive a copy of the police report (upon request), and have the right to a domestic counselor and a support person. • The name of a sex crime, domestic violence, or child abuse victim can be kept confidential at the victim's request. They can also establish a confidential address, legally change their name, &/or apply for new license plates.
Financial Assistance (even without a suspect)	<ul style="list-style-type: none"> • While a case is pending in court, California's Victim Compensation Fund may be able to assist with the reimbursement of some expenses. • A victim services advocate from the Riverside County District Attorney's Office Division of Victim Services qualifies as an authorized representative to assist a victim in filling out and submitting his or her paperwork to the Victim Compensation and Government Claim Board.
Initial filing of a criminal case	<ul style="list-style-type: none"> • The right to reasonable notice and to reasonably confer with the prosecuting agency on the case. • Comprehensive services provided by the Division of Victim Services. • The right to obtain a protective order.
Arraignment and Bail Hearings	<ul style="list-style-type: none"> • Upon the victim's request of notification, a victim has the right to be made aware of or given notice, in a timely manner, of court proceedings. • Right to attend along with at least one person of the victim's choosing. • Right to be informed of the outcome of the case within 60 days of the final outcome.
Trial Readiness Conference	<ul style="list-style-type: none"> • The right to request notification and attend. Attendance is not mandatory.
Plea Agreements	<ul style="list-style-type: none"> • Victim can attend, if he/she chooses by notifying appropriate person
Jury Trial	<ul style="list-style-type: none"> • Right to be present for the closing argument and verdict reading. • Victims of sex crimes, child abuse, domestic violence, & elder abuse may be allowed to have the public excluded from hearing their testimony, if testifying the victim can receive special treatment in the court proceedings. • A victim's previous sexual history is only admissible upon written motion by the defendant showing the evidence is relevant.
Sentencing Hearing	<ul style="list-style-type: none"> • The right to be present at sentencing and to address the court. • Right to speak with the probation officer and provide a written impact statement. • The right to prompt return of property when it is no longer needed

	as evidence.
Restitution	<ul style="list-style-type: none"> • The right to restitution and to have this restitution paid before defendant's other civil fines, penalties, or other court charges.
Probation or Release from County Jail	<ul style="list-style-type: none"> • Right to be notified if a defendant is released to work furlough. • In the unlikely event that the defendant escapes, the victim must be given immediate notification. • If the defendant's sentence is modified, the victim has a right to notification. • Domestic Violence victims, upon request, will receive 15 days notice of the defendant's release. • Sex crime victims will be notified at least 60 days prior to defendant's release; and, upon request, the victim has the right to be informed of any hearings to determine the defendant's eligibility for release or extension of the defendant's commitment.

B. VICTIM RIGHTS IN FELONY CASES

Stage of Process	Victim's Rights
Investigation of potential crime	<ul style="list-style-type: none"> • The right to keep information from becoming public record or to limit the public's access to that information. • The right to refuse to speak with any of the defendant's investigation team. <u>This applies throughout the process.</u> • The right to see police reports on their case. • Sexual assault and child molestation victims have the right to a professional exam, a counselor and a support person, pregnancy, and venereal disease testing, and the right to know any results from the suspects testing, if applicable. • Domestic Violence victims are entitled to necessary emergency assistance, may be provided with an Emergency Protective Order, will receive a copy of the police report (upon request), and have the right to a domestic counselor and a support person. • The name of a sex crime, domestic violence, or child abuse victim can be kept confidential at the victim's request. They can also establish a confidential address, legally change their name, &/or apply for new license plates.
Financial Assistance (even without a suspect)	<ul style="list-style-type: none"> • While a case is pending in court, California's Victim Compensation Fund may be able to assist with the reimbursement of some expenses. • A victim services advocate from the Riverside County District Attorney's Office Division of Victim Services qualifies as an authorized representative to assist a victim in filling out and submitting his or her paperwork to the Victim Compensation and Government Claim Board.
Initial filing of a criminal case	<ul style="list-style-type: none"> • The right to reasonable notice and to reasonably confer with the prosecuting agency on the case. • Comprehensive services provided by the Division of Victim Services. • The right to obtain a protective order.
Arraignment and Bail Hearings	<ul style="list-style-type: none"> • Upon the victim's request of notification, a victim has the right to be made aware of or given notice, in a timely manner, of court proceedings. • Right to attend along with at least one person of the victim's choosing. • Right to be informed of the outcome of the case within 60 days of the final outcome.
Felony Settlement Conference	<ul style="list-style-type: none"> • The right to request notification and attend. Attendance is not mandatory.
Information Arraignment	<ul style="list-style-type: none"> • The right to speedy resolution of their case. • Victim can attend, if he/she chooses by notifying appropriate person
Plea Agreements	<ul style="list-style-type: none"> • Victim can attend, if he/she chooses by notifying appropriate person
Preliminary Hearing	<ul style="list-style-type: none"> • Only the defense attorney receives the victim's contact info. • If victim is subpoenaed and no longer needed, he/she has the right to be notified of the change in the proceeding. • Victims are assigned a victim services advocate. • Testifying witnesses are entitled to witness protection. • Employers may not penalize subpoenaed witnesses for taking work time to appear in court.
Jury Trial	<ul style="list-style-type: none"> • Right to be present for the closing argument and verdict reading. • Victims of sex crimes, child abuse, domestic violence, & elder abuse may be allowed to have the public excluded from hearing

	<p>their testimony. If testifying the victim can receive special treatment in the court proceedings.</p> <ul style="list-style-type: none"> • A victim’s previous sexual history is only admissible upon written motion by the defendant showing the evidence is relevant.
Pre-sentencing	<ul style="list-style-type: none"> • If the probation department prepares a sentencing report, it must be made available for the victim of the crime to review. • A victim may agree or disagree with the probation report and provide information to support their opinion.
Penalty Phase (Death Penalty Cases)	<ul style="list-style-type: none"> • The right to attend and be heard in front of the court and provide an impact statement.
Sentencing Hearing	<ul style="list-style-type: none"> • The right to be present at sentencing and to address the court. • Right to speak with the probation officer and provide a written impact statement. • The right to prompt return of property when it is no longer needed as evidence.
Restitution	<ul style="list-style-type: none"> • The right to restitution and to have this restitution paid before defendant’s other civil fines, penalties, or other court charges.
Imprisonment and Release	<ul style="list-style-type: none"> • Victims will be notified of parole hearings and given the opportunity to speak live or by video-conferencing, or submit a statement in writing or by electronic means. • Right to be notified if a defendant is released to work furlough. • In the unlikely event that the defendant escapes, the victim must be given immediate notification. • If a defendant is sent to a mental health facility, the victim has the right to be informed of any hearing to determine the defendant’s release on outpatient status. • If the defendant’s sentence is modified, the victim has a right to modification. • Generally stalking defendants are not released on parole within 35 miles of the victim’s actual residence or place of employment. • Sex crime victims will be notified at least 60 days prior to defendant’s release; and, upon request, the victim has the right to be informed of any hearings to determine the defendant’s eligibility for release or extension of the defendant’s commitment. • Domestic Violence victims, upon request, will receive 15 days notice of the defendant’s release.
Executions (Death Penalty Cases)	<ul style="list-style-type: none"> • Upon written request, the victim’s “immediate family” may be present at defendant’s execution.

C. VICTIM RIGHTS IN JUVENILE CASES

Stage of Process	Victim's Rights
Juvenile Adjudication Investigation	<ul style="list-style-type: none"> • The right to keep information from becoming public record or to limit the public's access to that information. • The right to refuse to speak with any of the defendant's investigation team. <u>This applies throughout the process.</u> • The right to see police reports on their case. • Sexual assault and child molestation victims have the right to a professional exam, a counselor and a support person, pregnancy, and venereal disease testing, and the right to know any results from the suspects testing, if applicable. • Domestic Violence victims are entitled to necessary emergency assistance, may be provided with an Emergency Protective Order, will receive a copy of the police report, and have the right to a domestic counselor and a support person. • The name of a sex crime, domestic violence, or child abuse victim can be kept confidential at the victim's request. They can also establish a confidential address, legally change their name, &/or apply for new license plates.
Financial Assistance (even without a suspect)	<ul style="list-style-type: none"> • While a case is pending in court, California's Victim Compensation Fund may be able to assist with the reimbursement of some expenses. • A victim services advocate from the Riverside County District Attorney's Office Division of Victim Services qualifies as an authorized representative to assist a victim in filling out and submitting his or her paperwork to the Victim Compensation and Government Claim Board.
Probation Screening Intake	<ul style="list-style-type: none"> • The right to reasonable notice and to reasonably confer with the prosecuting agency on the case. • Comprehensive services provided by the Division of Victim Services. • The right to obtain a protective order.
No Petition Filed Informal Settlement	<ul style="list-style-type: none"> • The right to restitution if ordered.
Adult Court	<ul style="list-style-type: none"> • If it is determined that a juvenile will be tried as an adult, all court proceedings will occur in adult criminal court. (See Victim Rights in Felonies.)
Juvenile Petition Filed	<ul style="list-style-type: none"> • The right to reasonable notice and to reasonably confer with the prosecuting agency on the case. • Comprehensive services provided by the Division of Victim Services. • The right to obtain a protective order.
Detention Hearing	<ul style="list-style-type: none"> • Upon the victim's request of notification, a victim has the right to be made aware of or given notice, in a timely manner, of court proceedings. • Right to attend along with at least one person of the victim's choosing.
Pre-trial Hearing	<ul style="list-style-type: none"> • The right to request notification and attend. Attendance is not mandatory.
Fitness Hearing	<ul style="list-style-type: none"> • Under these circumstances, the victim has a right to obtain copies of the charging petition, the minutes of the proceedings, and orders of adjudication and disposition of the court contained in the court file.
Jurisdictional Hearing	<ul style="list-style-type: none"> • Juvenile cases are generally closed to the public. Only individuals

	<p>with an interest in the case may be allowed in the court room, including victims. It is at the judge's discretion to allow additional individuals in to the courtroom.</p> <ul style="list-style-type: none"> • Victims of sex crimes, child abuse, domestic violence, & elder abuse may be allowed to have the public excluded from hearing their testimony. If testifying the victim can receive special treatment in the court proceedings.
Restitution	<ul style="list-style-type: none"> • The right to restitution and to have this restitution paid before defendant's other civil fines, penalties, or other court charges.
Disposition	<ul style="list-style-type: none"> • Victims of crimes committed by juveniles have a right to be notified of the disposition (sentencing) date of a juvenile case and be present and make an impact statement.
Imprisonment and Release	<ul style="list-style-type: none"> • The victim has a right to be present at any hearing to consider the release of the juvenile from the Youth Authority or their release on parole. • Upon request by the victim, the Division of Juvenile Justice will provide 30 days written notice to the victim of any hearing to consider releasing the inmate. • The victim may appear at the hearing and may make a statement or submit a written or recorded statement to the parole board. The victim may bring a support person with him or her. If the victim is unable to attend, two support persons may attend to provide the victim impact statement.