

NAVIGATING THE CRIMINAL JUSTICE SYSTEM



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THE PROCESS

Law enforcement personnel investigate crimes and, if sufficient evidence is found, make arrests. But an arrest is just the first step in the criminal justice process.

After an arrest, prosecutors determine if there is sufficient evidence to file charges. If such evidence exists, a criminal complaint is filed in court or in some cases prosecutors may ask a grand jury to review evidence and issue an indictment.

In criminal cases each side is represented by an attorney. Deputy district attorneys, who represent the People of the State of California, prosecute criminal cases. A defendant has a constitutional right to be represented by an attorney. If a defendant cannot afford an attorney, one will be appointed by a judge. Under certain circumstances, a defendant may represent himself/herself.

Once a felony complaint is filed, the case is presented to a judge at a preliminary hearing.

If the defendant pleads guilty or is convicted at trial, he/she will be sentenced by a judge to prison, jail, probation and/or receive other conditions of punishment.

If the defendant is acquitted at trial, he/she will go free.

KEY LEGAL TERMS

Acquittal: A final determination by a judge or jury that the prosecution did not prove the defendant was guilty beyond a reasonable doubt.

Arraignment: A court proceeding at which a defendant is brought before a judge, informed of the charge(s) against him/her, and a plea – usually not guilty – is entered.

Closing Argument: After all testimony and evidence has been presented at trial, the prosecutor and defense lawyer each makes a final statement summarizing his/her case.

Complaint: A document filed by the prosecution accusing one or more persons of committing one or more crimes.

Continuance: A delay in court proceedings ordered by a judge for a variety of reasons.

Conviction: A final determination that the defendant committed the crime(s) as charged. A conviction occurs when a judge or jury finds the defendant guilty or when the defendant pleads guilty or no contest.

Felony: A crime that may be punished by confinement in prison or jail, by fines, by forfeiture of office and – for murder and other specific crimes – by death.

Grand Jury: A 23-member panel of citizens empowered to hear evidence presented by the prosecution and issue charging documents, which are called indictments.

Misdemeanor: A crime that is punishable by no more than one year in county jail or generally a \$1,000 fine.

Motion: A written or verbal request asking a judge to make a legal ruling in a case.

Opening Statement: Before any testimony or evidence is presented at trial, the prosecutor and defense lawyer each makes a statement outlining evidence he/she expects to present.

Plea: A defendant's answer to the charge(s) against him/her. A defendant may plead not guilty, guilty or no contest.

Preliminary Hearing: A court proceeding in felony cases at which the prosecution must present evidence to support the charge(s) filed against a defendant. A judge decides if the evidence is sufficient and if the

case should proceed toward trial.

Presumption of Innocence: A principle of criminal law that requires prosecutors to prove the guilt of a criminal defendant and eliminates any burden the defendant has to prove his/her innocence.

Reasonable Doubt: A standard of proof that must be surpassed to find a defendant guilty of a crime; a doubt based on reason and common sense after careful and impartial consideration of all the evidence.

Restitution: Money paid to a victim who suffered financial losses such as stolen property, medical bills and funeral expenses resulting from a crime.

Sentencing: A court proceeding at which a judge sets a convict's punishment. This may include a prison, jail or probation term or other conditions.

Subpoena: A legally binding summons to appear in court.

Testimony: Any statement made, or answer given, by a witness who is under oath in court. Witnesses may encounter two forms of questioning. **Direct Examination** is the initial questioning of a witness by the attorney who called that person to testify. Both prosecutors and defense lawyers may call witnesses. **Cross-Examination** is the questioning of a witness by the opposing lawyer who did not call that person to testify. Cross-examination is intended to clarify or discredit testimony given during direct examination.

Verdict: The jury's final unanimous decision determining if a defendant is guilty or not guilty. If jurors cannot reach a unanimous verdict, a judge will declare a mistrial and the defendant may face a new trial before a new jury.

ATTENDING COURT PROCEEDINGS

Victims, their families and friends and members of the public may attend court proceedings to watch legal arguments, testimony and court rulings. To comply with court etiquette please:

- Dress neatly.
- Do not wear or display buttons or other items identifying the victim.
- Leave drinks, food and gum outside the courtroom.
- Stand when instructed to do so by the bailiff or judge.
- Refrain from talking inside the courtroom.
- Do not speak near a member of the jury or attempt to talk to or communicate with jurors.
- When the verdict is being read, refrain from any verbal outbursts or other disruptive reactions.

The judge may exclude from the courtroom persons who cause a disturbance or do not follow court decorum.

Victims and their families and friends must avoid confrontations and attempts to communicate with the defendant and his/her family.

Promptly notify police and court officials of threats, intimidating behavior or attempts to dissuade a victim or his/her family from taking part in proceedings.

In criminal homicide cases, graphic photos of the victim may be presented as evidence. Certain family members may consider leaving the courtroom before the presentation of this evidence.

TESTIFYING IN COURT

A witness called to testify by either the prosecutor or the defense attorney should:

- Always tell the truth.
- Listen carefully and answer only the question asked; answer “yes” or “no” if the question calls for it; and do not volunteer additional information.
- Ask that the question be repeated if it is confusing or not understood; and not guess if he/she does not know the answer.
- Be patient and courteous answering attorneys’ questions – both attorneys are allowed to question witnesses.
- Ask to review his/her prior statements related to the case – such as statements to police – before taking the stand; be prepared to answer questions about them.
- Wait until the judge tells him/her to answer the question when an attorney objects to a question.
- Speak loudly and clearly.
- Dress neatly.

LOS ANGELES COUNTY
DISTRICT ATTORNEY’S

BUREAU OF VICTIM SERVICES

1-800-380-3811

<http://da.lacounty.gov/victims>

VICTIM SERVICES

The District Attorney’s Bureau of Victim Services is available in courthouses and police stations throughout the county to assist crime victims who suffered injury or were threatened with injury. Victim services representatives provide assistance and resources to victims to help keep them safe and counseling referrals to address the trauma of victimization.

In addition to helping victims obtain restitution, victim services representatives provide crisis-intervention services and necessary referrals to crime victims and their families; assist in requesting protective orders; guide crime victims through the court process; help arrange emergency shelter, food and clothing; and assist in filing for compensation through the California Victim Compensation Board.

Victims of violence or threats of violence with police reports on file may be eligible to receive compensation for qualifying losses and expenses related to the crime such as loss of wages and relocation, medical and counseling expenses.

Staff members are available to assist victims in several languages. There are no fees or legal residency requirements.

VICTIM IMPACT STATEMENT

At a defendant’s sentencing, the victim has the right to make a statement explaining how the crime affected him/her and his/her family and friends. If the victim is unable or reluctant to speak in court, he/she may have someone else read the statement or may submit a recorded or written statement to the judge.

RESTITUTION

Crime victims are entitled to restitution. A sentencing judge must order a convicted offender to pay for financial losses stemming from the crime. Victims should give information, like receipts and supporting documents, about the loss, including the dollar amount, to prosecutors, probation officials and Bureau of Victim Services staff. This information will be used to determine the amount of restitution that the judge will order. In some cases, the documents may be needed to conduct a hearing if the convicted offender does not agree with what the victim claims as a loss.

A convicted offender sentenced to prison will have restitution deducted from his/her prison account and wages. If the offender is placed on felony probation, the Probation Department will collect the court ordered restitution. If you have questions regarding enforcement of a restitution order, please call the Restitution Enhancement Program at **800-380-3811**.

NOTICE OF PAROLE

A victim has the right to be informed of all parole hearings and to provide information for consideration before a decision is made to release the convict.

A victim also has the right to be informed of any change in the convict’s status, such as release upon completion of sentence, escape or death.

To assure notification, a victim must complete the California Department of Corrections and Rehabilitation (CDCR) **Request for Victim Services Form 1707** and always keep the CDCR’s Office of Victim and Survivor Rights and Services informed of his/her current address. To obtain the form and filing instructions call **1-877-256-6877** or visit www.cdcr.ca.gov/victim_services.