



CRIME VICTIMS'

HANDBOOK



Crime and Violence Prevention Center
California Attorney General's Office

Revised March 1998

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FOREWORD

Crime victims can become lost in a justice system that is geared to prosecuting criminals. But during the last three decades, there has been increasing sensitivity to the needs and rights of crime victims on the part of the criminal justice system.

California was the first state to pass legislation that provided financial help for crime victims. In 1965, the state implemented the Victims of Crime Program to allow victims to be reimbursed for monetary losses suffered while recovering from physical and emotional trauma that resulted from violent crime. In 1979, the Legislature established funding for rape crisis and victim/witness centers to provide support to victims, and in 1982, California voters passed an initiative called Proposition 8, or The Victims' Bill of Rights. Proposition 8 recognized the rights of victims in criminal justice proceedings and provided victims the right to speak at sentencing and parole hearings. Proposition 115, known as the Crime Victims' Justice Reform Act, was passed by the California voters in 1990. Proposition 115 benefitted crime victims by reducing the number of times crime victims must testify, promoting speedy trials, increasing sentences and punishment and requiring reciprocal discovery of evidence. All of this activity resulted largely from a grassroots movement of crime victims reasserting control over their own lives.

The Crime Victims' Handbook was written especially for California's crime victims and witnesses. If you are a victim or witness, this handbook describes the process that you may go through as part of the criminal justice system. It also advises you of your rights and of the state and local services that may be available to assist you. In addition, you will find definitions of legal and law enforcement terms in the Glossary that may be useful to you.

If you are a crime victim, witness, or victim survivor... help is available through many of the resources listed in this publication. We hope this information will be of benefit to you and wish you the best.

Attorney General's Office
Crime and Violence Prevention Center
State of California

VICTIM SERVICE AGENCIES

People face many problems after becoming victims of crime. Studies have shown that victims and witnesses often experience trauma resulting from a crime, which can be increased by their involvement with the criminal justice process. They often feel isolated and confused, and do not know where to turn for practical advice or support. Further, crime victims often need immediate help: food, clothing, or temporary housing.

Victim/Witness Assistance

Agencies such as victim/witness assistance centers, sexual assault centers, child abuse treatment centers, and domestic violence shelters have been established throughout the state to help crime victims regain control over their lives. All California counties have victim/witness assistance centers to help crime victims. The level and type of services vary from community to community. Your local victim/witness assistance center can inform you of the specific services available in your community.

Supported by government and private funds, these programs may provide emergency and long-term support to victims and their families. For information on these programs and their locations, call the Victims of Crime Resource Center, toll-free, at 1-800-VICTIMS (1-800-842-8467).

Services Available

Generally, victim/witness assistance centers provide basic services that include the following:

- ◆ Counseling services, such as:
 - ❑ Crisis intervention;
 - ❑ Resource and referral counseling to other agencies to obtain services not available from the center; and
 - ❑ Follow-up counseling for emotional, personal, financial and employment problems resulting from the crime.

- ◆ Emergency assistance in obtaining temporary shelter, clothing, food, transportation, and medical care

- ◆ Help with filing for compensation through the state Victims of Crime Program, administered by the State Board of Control (SBOC)

- ◆ Assistance and support through all criminal justice proceedings, such as:
 - ❑ Assistance in understanding the criminal justice system;
 - ❑ Assistance and support through court appearances;
 - ❑ Help in obtaining property held as evidence by law enforcement; and
 - ❑ Information, upon request, regarding the progress of the case and its disposition.

- ◆ Notification services, including:
 - ❑ Notification of friends and relatives that you have been a victim of a crime, at your request; and
 - ❑ Notification of, and intervention with, your employer, on your behalf, to minimize loss of pay and/or benefits because the crime caused loss of time from work.

In addition to these services, some centers may assist with child care, transportation, funeral arrangements, and creditor intervention, and may assist in obtaining direct restitution.

If your community has a sexual assault center or domestic violence shelter, other services may be available: 24-hour crisis telephone line; follow-up crisis and long-term counseling; accompaniment to and advocacy services for medical examinations, criminal justice proceedings, and other agencies as needed; and emergency safe homes or shelters. Contact your local victim/witness assistance center or the Victims of Crime Resource Center, toll free, at 1-800-842-8467, for a referral to the closest rape crisis or domestic violence center.

THE CRIMINAL JUSTICE SYSTEM

Role of Law Enforcement

After a crime is reported to a law enforcement agency, the officers arriving first on the scene have the duty to learn as much as possible about the crime, the suspect and all potential witnesses. They are also responsible for securing the crime scene to protect evidence.

Being the victim of a crime is an emotionally-upsetting experience; however, it is important that you cooperate fully with law enforcement officers and tell them everything you know. This information may help identify and apprehend the suspect. If you would like assistance and support from a victim service agency (victim/witness, sexual assault, child abuse treatment or domestic violence), ask the officer how to contact these agencies. If such services are available in your area, you may want to call a center to have a victim advocate with you for support during any investigative interviews, medical examinations or follow-up procedures.

After the initial report by the responding officers, the case may be turned over to an investigator for further work. You may be contacted and interviewed again for more information, and you may want to have a victim advocate with you for emotional support during these proceedings. Be sure to write down the name and telephone number of the officer or investigator so that you can call later to ask further questions or obtain more information. (A form for recording important information is located in appendix A.)

If there is enough evidence to arrest a suspect, that person may be arrested at the scene or a warrant for the arrest may be issued later by a judge. The suspect will then be apprehended and the case turned over to the prosecutor.

If there is not enough evidence to make an arrest, and additional evidence is not discovered within a reasonable period of time, the case may be closed. Homicide cases, however, are never closed.

Role of the Prosecutor

When the criminal investigation has been completed, the case goes to the prosecutor's office. In criminal complaints at the county level, this will usually be the District Attorney's Office. In some cases, the City Attorney's Office may prosecute the offender. The prosecutor represents the people in criminal cases. People is defined as all members of society, including the victim.

The prosecutor is responsible for reviewing the case to ensure that there is enough evidence to effectively prosecute the suspect. If it is determined that there is sufficient evidence, the prosecutor prepares and files a formal complaint.

If the suspect is older than 18 years old, the case will be heard in adult court. If the suspect is younger than 18, the case usually will be heard in the juvenile court. For some serious offenses, a juvenile may be referred to adult court and tried as an adult.

If the prosecutor proceeds with the case, you, as the crime victim, become the complaining witness. You may be called to testify or to attend court proceedings. You do not need to hire a private attorney for the criminal prosecution. The prosecutor

represents the people of California in criminal matters. If you desire, victim service program staff may be able to provide support services to you throughout the court process. (See "Services Available" on page 2.)

Defendant's Representatives

You may be contacted by someone working on behalf of the defendant, such as a public defender, private lawyer or private investigator, but you are under no legal obligation to talk to them or anyone else concerning the crime outside of the court. You may tell the defendant's representative that you do not wish to speak with him or her. If you choose to talk to the defendant's representative, it is vital to tell the truth. If you choose to be interviewed by the defendant's attorney or representative, you should also notify the investigating officer or prosecutor before having an interview with the defendant's representative.

Criminal Offenses

There are three types of criminal offenses: infractions, misdemeanors and felonies.

INFRACTION

An infraction is a public offense for which an offender can be fined but not sentenced to jail or prison. A traffic ticket for speeding is an example of an infraction.

MISDEMEANOR

A misdemeanor is a crime which is punishable by imprisonment in the county jail for not more than one year, by a fine, or by both. Shoplifting is an example of a misdemeanor.

FELONY

A felony is a crime which may be punishable by a state prison sentence, or by imprisonment in the county jail for up to one year as a condition of probation. Fines are also possible in felony cases.

Felonies are serious crimes such as rape or robbery. First-degree murder is a felony punishable by death, life without possibility of parole, or a sentence of twenty-five years to life. Other felony homicides are punishable by less severe sentences. If the defendant had a previous serious felony conviction, a new felony may be charged as a second or third strike under the California "Three Strikes" law. Second- and third-strike felonies will have increased penalties if convictions occur. Discuss the charges with the attorney prosecuting the case. This will usually be a deputy district attorney.

Some crimes such as burglary or assault can be charged as either felonies or misdemeanors, depending upon the circumstances of the crime. These charges are often referred to as "wobblers."

Minors under the age of 18 prosecuted in juvenile court may be sent to the California Youth Authority, placed in a county facility, placed in a group or foster home, or placed on probation. Offenders under the age of 21 prosecuted in adult court may be sent to county jail, the California Youth Authority, or to state prison. Commitments to the Youth Authority are usually considerably shorter than those to state prison.

Courts

There are two types of criminal courts: trial courts and appellate courts.

TRIAL COURTS

Trial courts hear evidence and decide whether a defendant is guilty or not guilty. Trials for infractions and misdemeanors are held in justice or municipal courts, and felony trials are held in superior courts. Felony criminal convictions, whether obtained by trials or guilty pleas, may be appealed by defendants to the courts of appeal.

Juvenile courts are also trial courts, but follow different rules and procedures than criminal courts. Juvenile court proceedings do not include juries. The judge makes a finding based on the evidence and decides the disposition of the case after considering information provided by the probation department in a probation report.

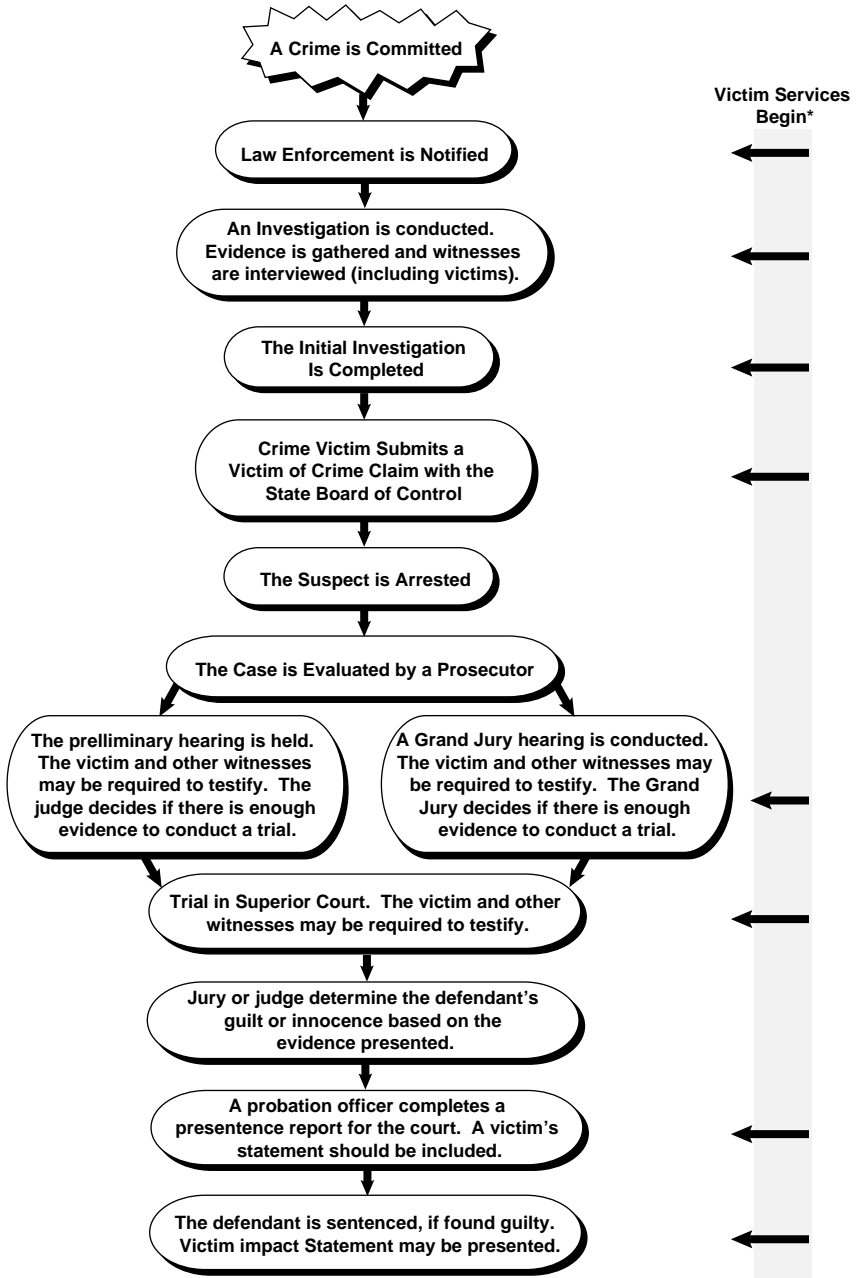
APPELLATE COURTS

Appellate courts (courts of appeal) do not hear evidence. Their role is to review the record of the trial court and determine whether errors occurred during the legal proceedings. After a decision by the court of appeal, either the prosecution or the defense may request a hearing before the California Supreme Court. If a court of appeal or the California Supreme Court reverses a conviction, there may be a new trial. If so, crime victims and witnesses may be required to appear to testify again.

To determine if a case in which you were a victim has been appealed by the defendant, you may call the California Attorney General's Office, Victim Notification Program, at (916) 324-5035. This program locates victims with cases on appeal and keeps them informed of case updates and decisions. In addition, the program provides victims with information explaining the appellate process and recent developments in the fight for criminal justice reform.

The Criminal Justice Process

Felony Cases with Adult Defendants



*Victim services may begin at different phases of the process and will continue throughout the criminal proceedings.

COURT APPEARANCES

Preliminary Hearings

If a criminal defendant is charged with a misdemeanor, the only court appearance you will usually be required to make is at the trial. Preliminary hearings are not held for misdemeanor offenses or infractions.

When a criminal defendant is charged with a felony, you may be required or may want to attend more than one court proceeding. Generally, your first court appearance will be for a preliminary hearing in the Justice or Municipal Court.

The preliminary hearing is held to determine if a crime has been committed and if there is sufficient cause to believe the defendant committed the crime. If so, the defendant will be ordered to stand trial in Superior Court.

The "Crime Victims Justice Reform Act" (Proposition 115, 1990) authorizes, among other things, a law enforcement officer to provide "hearsay" testimony in certain cases. You should discuss the possibility of such "hearsay" from a law enforcement officer testimony with the prosecuting attorney to learn if it is appropriate in your case.

Upon request by the defendant, a preliminary hearing may be closed to the public, except for the people who accompany crime victims. Crime victims have the right to choose someone to be with them at all hearings for emotional support. Further, victims of child abuse or sex crimes are entitled to

have two support people of their choice with them during their testimony at preliminary hearings, jury trials, and juvenile proceedings.

Grand Jury Indictments

Proposition 115 restored the Grand Jury indictment process. If the Grand Jury investigates allegations of a felony and indicts a defendant, a preliminary hearing is not required. Grand Jury proceedings are closed to the public and may not be discussed outside the Grand Jury room. Once an indictment occurs, the case is referred directly to the Superior Court for trial.

Superior Court

After a preliminary hearing has been conducted, or the Grand Jury returns an indictment, the case against the defendant charged with a felony is sent to Superior Court for trial. Guilt or innocence will be determined by a jury or, in some cases, the judge. If a defendant is found guilty, or enters a plea of no contest, the superior court judge will pass sentence after a presentence report, including a sentencing recommendation, is completed by the probation department for the court.

Motions

Motions are formal requests by either the prosecution or the defense for a judge to hear and decide a disputed issue. Before a case goes to trial, motions such as a motion to suppress evidence may be made to the court, and hearings are held to determine whether the motions will be granted. An example of a disputed issue may be the legality of police conduct. Criminal defendants have the right to question the legality of police conduct, especially searches and seizures,

prior to their trials. Defendants may also challenge the reliability of identifications made by victims and other witnesses before trial. Therefore, crime victims or witnesses may be required to attend several hearings.

Your Testimony

During the preliminary hearing, evidence suppression hearings or during the trial, you may be questioned by the prosecutor and the defense attorney. The prosecutor may discuss courtroom rules and testimony with you before court appearances.

The following are some pointers on how to be a good witness:

- ◆ Be truthful. Never exaggerate or shade your testimony. Just tell the facts, simply and concisely, as you know them.
- ◆ Be attentive. Listen carefully to the questions. If you do not understand a question, ask that it be repeated or explained.
- ◆ Answer only the question asked. Do not try to say everything at once or volunteer information that is not requested.
- ◆ Explain your answer, if necessary. If a question cannot be answered truthfully and fully with a "yes" or "no," you have the right to ask the judge to permit you to explain after first answering "yes" or "no."
- ◆ Do not guess. Give definite answers whenever possible. If you do not know an answer, do not be afraid to say so. Do not stop to figure out whether your answers will help or hurt your testimony for either the prosecution or the defense. Just answer questions to the best of your knowledge.

- ◆ Be prepared. Do not try to memorize what you are going to say; try to recall relevant facts.
- ◆ If asked, "Have you talked to anyone about the case?" — do not forget your conversations with the prosecutor, defense attorney, staff members such as a paralegal, investigators, or victim advocates.
- ◆ When an attorney objects to a question, do not answer the question until the judge rules on the objection and instructs you to answer the question. If the judge agrees with the grounds for an objection, the objection will be "sustained." When the judge does not believe the objection has merit, the objection will be "overruled." If you are confused, ask the judge for direction.
- ◆ Remain calm and courteous. Do not lose your temper or become angry, as it may diminish the impact of your testimony.
- ◆ Speak clearly and loudly. Always face the person questioning you, and speak clearly enough to be heard by the jury. Do not simply nod for a "yes" or shake your head for a "no."
- ◆ Dress neatly and always show respect for the court. For example, wearing hats or chewing gum is generally not acceptable in court.
- ◆ Be yourself. The judge, jurors, and attorneys are human also and appreciate sincerity.

Relatives and Friends in Court

Relatives and friends may decide to attend court proceedings. The following are suggestions on courtroom behavior for visitors.

- ◆ Dress neatly. Take hats off. Remember to show respect for the court.
- ◆ Leave drinks and food, including gum, outside of the courtroom.
- ◆ Smoke only in designated areas and never in the courtroom.
- ◆ Stand when instructed to do so by the judge or bailiff. This will usually only occur when either the judge or the jury enter the court.
- ◆ Never talk loudly or for a prolonged period of time. Save conversation for breaks. Keep gestures, facial expressions and head shaking to a minimum.
- ◆ Never attempt to talk with a member of the jury.
- ◆ Wait until the jury exits before leaving when the court recesses.

Sentencing

When all testimony and other evidence have been heard by the jury and/or the judge, the case will be submitted for a decision, commonly known as the verdict. If the defendant is found guilty of a felony charge, a sentencing hearing will be scheduled. Most criminal defendants are sentenced under the Uniform Determinate Sentencing Law (DSL). Generally, there are three possible fixed sentence terms: the lower term (shortest confinement time); the middle term; and the upper term (longest confinement time). The judge must choose the middle sentence term if no mitigating or aggravating circumstances are present.

Some criminal defendants may be given an indeterminate sentence which means that the sentence is not fixed and the release date is set by the Board of Prison Terms.

Victim Impact Statement

An important aspect of the sentencing process is the presentence report. The county probation department is responsible for preparing the presentence probation report prior to the sentencing hearing. This report includes a victim impact statement, so it is important that you provide information to the department for this statement. This is a good opportunity for you to tell the court what impact the crime has had on your life, such as physical and emotional injury or property loss. Because you have a right to restitution from the defendant, include information on any out-of-pocket expenses that you have incurred as a result of the crime.

Right to Attend the Sentencing

You are entitled to appear at the sentencing hearing and exercise your allocution right. Allocution is your right to speak at the sentencing hearing on matters concerning the crime, the penalty, and the need for restitution. You do not have to be present at the sentencing proceedings, but you have the right to attend if you wish, and to reasonably express your views. For more information on allocution, see Victims' Rights section below.

Victims' Rights

The following is a brief description of rights or legal matters that benefit crime victims and witnesses.

RIGHT TO KEEP ADDRESS CONFIDENTIAL

In cases of child abuse, spousal abuse and sex crimes, victims have the right to have their addresses kept confidential. Their addresses may be given only to the attorney for the defendant, but will not appear on any forms or public documents.

RIGHT TO NOT BE THREATENED OR INTIMIDATED

If anyone threatens you, call your law enforcement agency to report the threat and contact the prosecutor immediately. It is a crime for anyone to dissuade or prevent, or attempt to dissuade or prevent, a crime victim or witness from (1) assisting law enforcement agencies or prosecutors; or (2) attending or giving testimony at any trial or any proceeding authorized by law. If any such efforts involve coercion, threats or force, or are done for financial gain, it is a felony; otherwise it is a misdemeanor.

COUNSELOR-ASSAULT VICTIM PRIVILEGE

If you are a sexual assault or domestic violence assault crime victim, and you are referred to a sexual assault or domestic violence counselor, the law provides limited counselor-assault victim privilege. The law requires the counselor to complete specific training and to meet specific criteria before the confidential privilege applies.¹ This means that the law protects whatever is communicated or said in confidence between the victim and a qualified counselor. The qualified, trained counselor cannot reveal the communications to others unless ordered to do so by the judge. It is similar to the legal protection given doctor-patient and lawyer-client relationships. The victim may choose to sign a release which will allow the counselor to discuss the victim's case with a designated person or agency.

ALLOCUTION OR IMPACT STATEMENT (Sentencing and Parole Hearings)

Allocution is the right of victims, or their next of kin, to make a statement (spoken or written) at felony sentencing hearings and parole hearings. Do not hesitate to express your views of

¹California Evidence Code Sections 1035-1037.6

the defendant, the crime, or other relevant facts or circumstances.

The law requires that the county probation department notify you of the sentencing hearing for felony cases. As a practical matter, and given the workload of county probation offices, you can take the initiative to contact the prosecuting district attorney to let him or her know that you wish to speak at the sentencing hearing. Additionally, if the sentencing hearing is continued (delayed), you will need to contact the probation department, prosecuting district attorney's office, or the court clerk to find out when the hearing will be held.

You have the right to be informed of the sentence recommended to the court by the probation officer, but you may not view the actual probation report prior to sentencing. However, the law² permits you to inspect the probation report within 60 days after the judgment is pronounced.

Victims also have the right to make a statement at parole hearings. Parole hearings are held for prisoners serving an indeterminate term such as fifteen years to life. A request to be notified of hearings and to make a statement at a parole hearing must be sent, in writing, to:

Board of Prison Terms
Victims' Assistance Program
428 J Street, 6th Floor
Sacramento, CA 95814
(916) 327-5933

²California Penal Code Section 1203.05 (a)

If the offender in your case was sentenced to the California Youth Authority, make your request, in writing, to:

California Youth Authority
Office of Prevention and Victims' Services
4241 Williamsborough Drive
Sacramento, CA 95823
(916) 262-1392

Before appearing at either a sentencing or a parole hearing, you may want to think about what you are going to say. To make it easier on yourself, write out a statement so that if you become nervous during the hearing, you can simply read the statement. Or, instead of making a verbal statement to the court, you also have the right to submit your statement in writing or on videotape.

Making a statement (either spoken, written, or recorded) at the sentencing hearing or the parole hearing can be valuable because it helps you restore a sense of control and relieves the frustration that most victims experience. This also enables you to take an active role in the criminal justice process.

RESTITUTION

A judge may order a criminal defendant to pay you for damages caused by the crime. This type of restitution is sometimes called direct restitution. Direct restitution should not be confused with the Restitution Fund that legislation has provided for the payment of claims under the Victims of Crime Program. If you receive direct restitution from the offender for out-of-pocket expenses, the Victims of Crime Program will not cover those losses. (See the chapter on Victims' Compensation for information on this program.)

As a victim, you have the right to make the court aware of your need for restitution. The victim's request for restitution is typically included as part of the presentence report prepared by the county probation department. It will help the county probation department and the judge if you keep records of your personal injuries, money or property loss.

Restitution does not provide compensation for "pain and suffering." This may be addressed through a civil lawsuit. Civil cases (lawsuits) are separate cases initiated by a crime victim and his or her personal attorney.

Return of Property

Easily identifiable items, such as cars, are usually returned to the owner shortly after they have been recovered. However, you may have to pay towing and storage fees before your car is returned. Other items may be held for the trial because they are necessary to prove the crime. Once your property has been received as evidence in court, it may be a long time before it is returned. In some cases, you may successfully request that your property be photographed and then returned to you. The photographs are then substituted as evidence in the court proceedings. Your local victim/witness assistance center can assist you in finding out if your property can be returned to you.

VICTIM COMPENSATION

After people become crime victims, they often have financial, employment or other problems. Crime victims may be eligible to receive compensation for the financial, emotional, and physical losses they have suffered.

Victims of Crime Program

In 1965, California enacted the Victims of Violent Crime Act. This act provides for reimbursement to persons who, as a result of a violent crime, have suffered a monetary loss due to a physical or emotional injury not covered by another source (e.g., insurance). These persons may include specified family members who need psychotherapy as a result of the crime. Law enforcement officers are required to inform victims at the time of the crime about the availability of state compensation funds and the location of the local victim/witness assistance center where they may file for reimbursement.

Who Is Eligible?

- ◆ Any person who suffers physical or emotional injury as the result of a violent crime.
- ◆ Any family member (of a crime victim) who suffers a crime-related emotional injury.
- ◆ Anyone legally dependent for support upon a severely disabled or deceased victim.
- ◆ Any family member of the victim, including the victim's fiancé, who witnessed the crime and suffered a monetary loss due to an emotional injury.

- ◆ Anyone who takes legal responsibility and/or pays for the medical or burial expenses of a deceased victim.

Who Is Not Eligible?

- ◆ Persons who commit the crime.
- ◆ Persons who contribute to or were involved in the events leading up to the crime.
- ◆ Persons who do not cooperate with law enforcement in the investigation of the crime and/or prosecution of any known suspects.
- ◆ Persons who do not cooperate in the processing of a Victim of Crime application for compensation.

Compensation

Depending on the circumstances and the date of the crime, a person who qualifies as a victim of a crime may be entitled to receive compensation for unreimbursed monetary loss. This compensation must be reimbursement for medical and hospital bills; loss of income; loss of support; funeral and burial expenses; rehabilitation or retraining costs, including counseling and therapy; and, in some instances, attorney fees associated with representing a victim on a Victim of Crime claim with the State Board of Control.

Applications

To apply for compensation, you must submit a claim within one year after the crime and must cooperate in the investigation and prosecution of the suspect. If circumstances prevented your filing a claim within one year, you can file a late claim within three years of the crime, providing you can show good

cause for not filing earlier. Minor victims of crime have up to one year after reaching the age of 18 years to file a claim, if a claim was not previously filed. The State Board of Control is responsible for administering the Victims of Crime Program. The Board may grant a late claim for good cause. The circumstances must be reviewed by the Board to determine if an exception will be made.

Once a claim is filed you may have questions on the status of your claim. You should contact the State Board of Control for the status of your claim. It is important that you use your full name and Victim of Crime claim number when you have any verbal or written communication with the State Board of Control.

If your claim is denied because of a recommendation from the staff of the Victims of Crime Program, you may appeal that decision to the Board of Control for an informal hearing.

Applications are available from your local victim/witness assistance center or from the State Board of Control at:

California State Board of Control
Victims of Crime Program
P. O. Box 3036
Sacramento, CA 95812-3036
(916) 322-4426 or (800) 777-9229

Keep in mind that the Victims of Crime Program is a program of "last resort." If your loss is covered by insurance, the insurance must be used before the Victims of Crime Program covers any losses beyond the insurance coverage. All expenses and bills are your financial responsibility.

If you receive any direct restitution, insurance payments or a civil judgment resulting in payment to you, the State Board of Control will require repayment of previously paid Victim of Crime claims.

CIVIL LITIGATION

If you have suffered a personal injury or monetary or property loss, regardless of the criminal case outcome, you have the right to file a civil suit against the defendant to attempt to recover your losses (e.g., medical bills, lost wages and general damages).

In certain circumstances, third parties other than the criminal defendant(s), may be liable for your crime losses or injuries. You may want to check with the local prosecutor or a private attorney for information regarding possible litigation involving either a criminal defendant or third parties who may also be held responsible for your losses.

Time limits for filing civil suits vary from as little as six months to three years. If you think you may have the right to sue, it is important to contact an attorney as soon as possible to make sure you do not lose your legal standing.

In some criminal cases, the court may make a restitution order enforceable as a civil judgment. For information on whether your restitution order is enforceable as a civil judgment, you should contact your county clerk's office or the prosecuting attorney's office.

ESCAPE OR RELEASE OF OFFENDERS

If the defendant in your case is found guilty and sentenced to State Prison or the California Youth Authority, you have the right as a crime victim to be informed when a release or escape has taken place. You should send your request-to-be-kept-informed to the institution where the offender is being held. If you do not know the institution, you can send your written request to:

Department of Corrections
Victim Services Program
P. O. Box 942883
Sacramento, CA 94283-0001
(916) 358-2436

Or

California Youth Authority
Office of Prevention and Victims' Services
4241 Williamsborough Drive
Sacramento, CA 95823
(916) 262-1392

Be sure to include as much information about the offender as you know, such as his or her complete name, date of birth, superior court case number and the county where the trial was held. The Department of Corrections will then forward all written requests to the appropriate facility. The California Youth Authority Victim Services staff may be contacted for appropriate forms.

GLOSSARY OF LEGAL TERMS

Acquittal

A final judgment by a judge or jury that the prosecution has not proven a criminal defendant's guilt beyond a reasonable doubt. This is a not guilty verdict.

Adjudication

The decision (decree or judgment) by the court concerning the defendant(s) involved in a case.

Aggravation

Facts about the defendant or the crime that are used by the court when determining the prison sentence. Under the sentencing criteria, these facts may contribute to a longer prison sentence.

Allegation

The charge or claim that the prosecutor expects to prove in court.

Allocution

The right a victim has to make a statement (written or spoken) at felony sentencing hearings and parole hearings.

Arraignment

The initial court proceeding during a criminal prosecution. The defendant is advised of the allegations and his or her rights. A plea is then requested. If, at the conclusion of a preliminary

hearing, a defendant is ordered to trial, he/she will be arraigned again in superior court.

Bail

The deposit — money, property, or bond — that is put up by, or on behalf of, an arrested person to secure his or her release from jail before or after court proceedings begin. The state Constitution declares all arrested persons, other than those charged with a death penalty offense, are entitled to bail.

Calendar

The list of cases set to be heard in the same court on the same day.

Complaint

A written accusation filed by a prosecutor in a justice or municipal court that accuses one or more persons of committing one or more crimes.

Continuance

A delay of court proceedings.

Conviction

A guilty judgment based on the verdict of a jury, a judge, or on the plea of guilty or nolo contendere (no contest) by a criminal defendant.

Defendant

A person against whom a criminal case is pending.

Defense attorney

The attorney representing the defendant; he or she may be a private attorney, a court appointed attorney, or a county public defender.

Disposition

A final disposition is a specific legal action which takes place following an adult or juvenile felony arrest. Examples are dismissal, acquittal, or conviction. Examples of intermediate dispositions are suspended proceedings or the placement of a defendant in one or more programs.

Direct examination

The questioning of a witness by the attorney who first called the witness.

Discovery

The pretrial procedure in which the prosecuting or defense attorney receives evidence in the possession of the other, including witness statements, police reports, scientific examinations, etc. Discovery permits the attorneys to prepare their cases and helps to insure a fair trial.

Dismissal

A decision by a judge to end the prosecution of a case without deciding whether the defendant is guilty or not guilty.

DSL

The Uniform Determinate Sentencing Laws which established fixed terms for crimes and removed the element of judicial discretion from sentencing proceedings.

Enhancement

Additional confinement time added to the base prison term, based on specific circumstances such as use of a gun or knife when committing a crime.

Evidence

Testimony, documents, material objects or anything presented to human senses that are offered to prove or disprove any fact relevant to a case.

Expert witness

A person who has training, education or experience on a particular subject and who is formally found to be qualified as an expert by a judge. The expert witness may give opinions in court on matters in which his or her expertise is relevant. Nonexpert witnesses normally cannot give opinions in response to questions in court, but must speak only to facts.

Felony

A crime which may be punishable by imprisonment in a state prison and/or a fine, or death. Probation, with or without county jail time, is also a possible disposition.

Holding order

A decision ordering one or more persons to stand trial. This is made by a justice or municipal court judge after a preliminary hearing. A holding order is based on findings that one or more crimes has been committed and that there is sufficient cause to believe one or more persons identified at the preliminary hearing committed the crime(s).

Hung jury

A hung jury occurs when jurors cannot unanimously agree on a verdict of either guilty or not guilty, followed by the judge declaring a mistrial. The case may or may not be retried, at the discretion of the prosecutor.

Indeterminate sentence

Sentences that are not fixed and may be given for severe felony crimes such as murder. These sentences may be fifteen or twenty-five years to life with release dates set by the Board of Prison Terms after a parole hearing.

Indictment

A written accusation returned by a grand jury and filed in superior court.

Information

A written accusation filed in superior court by the prosecuting attorney after a holding order and accusing one or more persons of committing one or more crimes.

Investigators

Either private investigators working for the defense or law enforcement personnel working for the prosecution during the preliminary investigation of a criminal case.

Lower courts

These are justice and municipal courts.

Misdemeanor

A crime punishable by imprisonment in the county jail for not more than one year, by fine, or both.

Mistrial

A mistrial occurs when a trial must be stopped for any reason at some time after starting or when jurors cannot unanimously agree on a verdict. The case may or may not be retried, at the discretion of the prosecutor.

Mitigating circumstances

Factors that a judge may consider in reducing the penalty for committing a crime.

Motion

The formal request, by either prosecution or defense, for a judge to hear and decide a disputed issue.

“Overruled”

A judge’s ruling that an attorney’s objection is improper.

Own recognizance

The release, without bail, of a criminal defendant who promises a judge to appear at future court proceedings. In certain cases, the judge has statutory discretion to release the defendant without posting bail. Failure by a defendant to later appear in such a case is a crime.

Parole

The formal supervision of a convicted offender by a state parole agent when the offender is released from a state correctional institution into the community.

Plea

The response by a defendant to formal charge(s) in court. Such pleas include guilty, not guilty, nolo contendere (no contest) or not guilty by reason of insanity.

Plea bargain

A plea bargain usually involves a criminal defendant pleading guilty or nolo contendere (no contest) to a lesser offense or to only one of several charged offenses in return for an agreed-upon disposition.

Probation

A status judicially imposed on a criminal defendant who agrees to be supervised, usually formally, by a county probation department under specified conditions. Conditions of probation may include county jail, a fine, restitution to the victim, community work, counseling or "good conduct."

Prosecutor

At the local level the prosecutor will usually be the County District Attorney's Office. In some cases the prosecutor may be from the City Attorney's Office. The prosecutor reviews evidence to determine if a complaint may be filed. When a complaint is filed, the prosecutor will then handle the case through final disposition.

At the state level the prosecutor is the Attorney General's Office. On appeal, the prosecutor reviews the trial court records and represents the people in defending the actions of the district attorney's office and trial court.

Public defender

At the local level the County Public Defender, if appointed, will be the attorney for the defense. The public defender will present the defendant's case in court.

At the state level the State Public Defender's Office, if appointed, will define the issues and present the defendant's case on appeal.

Restitution

Compensation to a crime victim by a criminal defendant for financial losses or personal injuries caused by the crime.

Restitution Fund

A government account funded by penalty assessments added to fines from felony offenses, misdemeanors, or infractions. The fund is used to pay victims who file claims with the Victims of Crime Program administered by the State Board of Control.

Sentence

The penalty imposed by a judge upon a convicted criminal.

Subpoena

A mandatory legal notice to appear in court.

“Sustained”

A judge’s ruling that an attorney’s objection is proper.

Temporary Restraining Orders (TROs)

An order by the court that forbids a person from specific activities for a short time. TROs are often used in matters involving family or relationship violence.

Victim

Anyone who suffers emotional or physical injuries or who dies as a result of a crime.

Voir Dire

Questioning a juror or a witness to learn competency, qualifications and knowledge.

Witness

A person who has knowledge about a case and who may be called upon to testify in court.



APPENDIX A

(Sample Form)
Case Information

Full Name: _____ Date of Crime: _____

Law Enforcement Agency: _____

Responding Officer/ Badge Number: _____

Crime Report Number: _____

Telephone: _____

Detective/Investigator: _____ Telephone: _____

Victim Advocate: _____ Telephone: _____

Prosecuting Attorney: _____ Telephone: _____

D. A. Investigator: _____ Telephone: _____

Probation Officer: _____ Telephone: _____

Superior Court Judge: _____

Victim of Crime (VOC) Claim Information

State Board of Control Telephone: 1-800-777-9229 or (916) 322-4426

Local Joint Powers Claim Unit Telephone: _____

VOC Claim Number: _____ Date Claim Filed: _____

Attorney Name/Number (if applicable): _____

	Creditor/Date of Service	Amount
Bills Submitted on VOC Claim:	_____	_____
(Keep copies of all bills	_____	_____
and VOC applications)	_____	_____
	_____	_____

	Insurance Company	Policy Number
Health:	_____	_____
Automobile:	_____	_____
Homeowner's:	_____	_____
Life:	_____	_____
Other:	_____	_____



APPENDIX B



RESOURCES

Victim Assistance

Victims' Legal Resource Center
McGeorge School of Law
3200 Fifth Avenue
Sacramento, CA 95817
(916) 739-7049 or 1-800-VICTIMS (1-800-842-8467)

California Office of Criminal Justice Planning (OCJP)
1130 K Street, Suite 300
Sacramento, CA 95814
www.ocjp.ca.gov/

Victim Witness Branch
(916) 324-9128

Sexual Assault Branch
(916) 324-9120

Domestic Violence Branch
(916) 327-3672

Violence Against Children Branch
(916) 323-7449

California Youth Authority
4241 Williamsborough Drive
Sacramento, CA 95823
(916) 262-1392
www.cya.ca.gov/

Doris Tate Crime Victims Bureau
915 "L" Street, Suite 1120
Sacramento, CA 95814
(916) 556-1237 or 1-800-784-2846

Mothers Against Drunk Driving (M.A.D.D.)
National Office
511 E. John Carpenter Freeway, #700
Irving, TX 75062
1-800-438-6233
www.gran-net.com/madd/

M.A.D.D. California State Organization
P.O. Box 601008
Sacramento, CA 95860
1-800-I-AM-MADD or (916) 489-1000
www.maddcalifornia.org

National Organization for Victim Assistance (NOVA)
1757 Park Road, NW
Washington, DC 20010
1-800-879-6682
www.access.digex.net/~nova/

National Victim Center
2111 Wilson Boulevard, Suite 300
Arlington, VA 22201
(703) 276-2880
www.nvc.org/

Parents of Murdered Children
100 East Eighth Street, B-41
Cincinnati, OH 45202
(513) 721-5683
www.metroguide.com/pomc/

Victim Compensation

State Board of Control
Victims of Crime Program
P.O. Box 3036
Sacramento, CA 95812-3036
(916) 322-4426 or 1-800-777-9229
www.boc.cahwnet.gov/victims.htm

Crime Prevention

Crime and Violence Prevention Center
Office of the Attorney General
P.O. Box 944255
Sacramento, CA 94244-2550
(916) 324-7863
<http://caag.state.ca.us/cvpc/>

Pacific Center for Violence Prevention
San Francisco General Hospital
San Francisco, CA 94110
(415) 285-1793
www.pcvp.org/

Center for Substance Abuse Prevention PREV-LINE
National Clearinghouse for Alcohol and Drug Information
P.O. Box 2345
Rockville, MD 20847-2345
1-800-729-6686
www.health.org/

Center for the Study and Prevention of Violence
University of Colorado at Boulder
Campus Box 442
Boulder, CO 80309-0442
(303) 492-8465
www.colorado.edu/cspv/index.html

Centers for Disease Control and Prevention
National Center for Injury Prevention and Control
Division of Violence Prevention
4770 Buford Highway NE, Mailstop K60
Atlanta, GA 30341-3724
(404) 488-4362
www.cdc.gov/ncipc/dvp/dvp.htm

National Crime Prevention Council
1700 K Street NW., Second Floor
Washington, DC 20006-3817
(202) 466-6272
www.weprevent.org/

National Resource Center on Child Abuse and Neglect
63 Inverness Drive East
Englewood, CO 80112-5117
1-800-227-5242

National Resource Center on Child Sexual Abuse
2204 Whitesburg Drive, Suite 200
Huntsville, AL 35801
1-800-543-7006

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User Survey

Please take a few minutes to help the Attorney General's Crime and Violence Prevention Center better serve future crime victims.

On a scale of 1 to 10, with 1 meaning not helpful and 10 meaning very helpful, how would you rate the Crime Victims' Handbook on the following:

1. The Handbook assisted me in understanding the criminal justice process:

1 2 3 4 5 6 7 8 9 10

2. The Handbook was easy to understand:

1 2 3 4 5 6 7 8 9 10

3. The Handbook provided useful resources:

1 2 3 4 5 6 7 8 9 10

4. The Handbook helped me cope with the criminal justice process:

1 2 3 4 5 6 7 8 9 10

5. The Handbook will be helpful to other crime victims:

1 2 3 4 5 6 7 8 9 10



Please list any information that you wish the Handbook had covered or that should be discussed in greater detail, or provide any other comments: _____

Please mail to:

Office of the Attorney General
Crime and Violence Prevention Center
P.O. Box 944255
Sacramento, CA 94244-2550
Attention: Steve Hedrick

