

Your Guide to the Criminal Justice System

As a Victim or a Witness ...

Witnesses and victims of crime are vital to the effectiveness of the criminal justice system and to the District Attorney's goal of seeking and doing justice.

Without you, the system cannot work.

The Solano County District Attorney's Office can help you understand how the system works and keep you informed about your case. To do this, however, we must have your current address and telephone number and a way to reach you if you are going to be out of town. This brochure is a guide to the process and to the terms you may encounter as your case moves through the system.

The Subpoena -- Don't Ignore It

A subpoena is a court order requiring you to be present at the time and place stated. You will receive your subpoena in person or by mail.

Court hearings do not always take place at the precise time scheduled. Calendar conflicts, the unavailability of a witness, or a legal motion may cause your case to be delayed or continued. Whenever possible, the Deputy District Attorney will call and advise you if delays are anticipated, allowing you to continue your normal routine in the meantime.

Your subpoena will show the type of hearing at which you are to appear. If you fail to appear, the judge may impose a fine or jail sentence. Be sure to bring your subpoena with you to court.

If the Case is Postponed . . .

Sometimes a case will be postponed or continued to another date. If a continuance is ordered before you appear in court, we will make every effort to let you know that you need not appear on the date listed on the subpoena.

However, if a continuance is sought on the date you are scheduled to appear, we may not be able to let you know in time to avoid your coming to court. Note: if the court grants a continuance, your original subpoena is still in effect. We will contact you with a

new date and time to appear.

We request that you call the District Attorney's Office on the evening before your scheduled appearance (on Friday for a Monday appearance) at the number printed on your subpoena. The information numbers are also located in the box at the lower right-hand corner of this Guide. A recorded message will inform you if your case is still on calendar or if it has been continued. If your case is not listed on the recording, please call the District Attorney's Office at 8:00 a.m. the following morning.

The Court System

Solano County has a consolidated Superior Court. Several judges handle criminal matters and other judges and commissioners handle juvenile matters. The less serious criminal cases are called misdemeanors. The more serious are called felonies. The juvenile court hears proceedings when the accused is under the age of 18.

Misdemeanor Trial

In misdemeanor cases there is no preliminary hearing, so your first appearance will be for the actual trial. Your testimony will be required only once. (In many cases a trial is not conducted because the defendant pleads guilty.)

The Preliminary Hearing

In felony cases, your first appearance will most likely be at the preliminary hearing. No jurors will be present. This is not a trial, but it is a hearing at which the judge determines if there is sufficient evidence to require the defendant to stand trial. In most cases, just enough evidence is presented to convince the judge that there should be a trial.

Arraignment in the Trial Court

After the court finds probable cause for a trial, the defendant will be arraigned again in the trial court. You do not have to appear.

Felony Trial

California law required that a defendant charged with a felony be brought to trial within 60 days of the filing of the defendant's arraignment in the trial court, unless that right is waived by the accused. Thus, in many cases, this time could extend to several months.

Witnesses must testify at the trial, even if they were thoroughly questioned at the preliminary hearing. In some cases, a trial will not be held because the defendant pleads guilty. When this happens, you will be released from your obligation under the subpoena to appear in court. You should call the Subpoena Information Recording for information.

Your Testimony

When you appear as a witness, you will be called to the witness stand by a Deputy District Attorney to testify about what you saw, heard, or did which may be relevant to the charges against the defendant.

After the Deputy District Attorney has asked questions, the defense attorney has the right to test you memory of the facts, or to "cross-examine" you.

You may be excluded from the courtroom when other witnesses are testifying. This is to ensure that the testimony or memory of one witness does not influence the testimony of another.

The defense attorney may ask to speak with you to find out the nature of your prospective testimony. There are no laws or rules prohibiting you from telling the defendant's attorney or a representative of the defense what your testimony will be. However, you are not required to do so. This is your decision.

If you choose to speak to the defense, you may wish to have another person present or ask to tape record the interview to avoid later misquotations and misunderstandings.

In any event, you should always inform the Deputy District Attorney about contact from the defense.

Verdict and Sentencing

The jury will find the defendant either guilty or not guilty of the crime. If the accused is found guilty, a date will be set for sentencing, usually 28 days after the verdict.

At the sentencing hearing, you have the right to appear and make a statement about the effects of the crime on you and your family and about the punishment you feel is appropriate for the defendant. This can be done in a written "Victim Impact Statement" or on audio or videotape to the court or to the probation department.

A Crime Victim Assistance Advocate may accompany you to court to support you during the sentencing hearing.

The judge may impose one or more of the following sentences: state prison (felony cases only), county jail, probation, fine, restitution, or treatment. The judge may also order a restitution fine and/or other appropriate fees and penalties.

Please Call If You Have Questions:

**Solano County
District Attorney's Office
Monday - Friday, 8:00 a.m. - 5:00 p.m.**

675 Texas Street, Fairfield (707) 784-6800
Crime Victim Assistance (Fairfield) (707) 784-6844

321 Tuolumne Street, Vallejo (707) 553-5321
Crime Victim Assistance (Vallejo) (707) 553-5400

**Subpoena Information Recording
(After Normal Business Hours)**

Fairfield Court Appearance (707) 784-6848
Vallejo Court Appearance (707) 553-5452
Juvenile Court Appearance (707) 784-6858

For register for notification of offender/inmate release, call Victim Information & Notification Everyday (VINE) at (877) 331-8463

Services for Victims and Witnesses

The Solano County District Attorney's Crime Victim Assistance Unit encourages you to cooperate in the investigation of your case and the prosecution of the offender. To help, we provide several important services.

Crisis and Emergency Services

We help with crime-related crisis counseling and, when necessary, emergency services such as food, shelter, clothing, and medical care.

Court Information

Dealing with the criminal justice system can be intimidating, confusing, and frustrating. Our personnel can explain your rights as a victim or witness and provide information about the process of the criminal justice system.

Case Status

We can give you current information about your court case, including the dates of court hearings and the final outcome.

Court Support

Appearing in court can be intimidating and inconvenient. Our staff can help coordinate your scheduled appearances and let you know just what to expect. When appropriate, Victim Witness Advocates accompany victims, witnesses, and family members to court proceedings for support.

Referral Counseling

Our personnel are familiar with local, state, and national resources. We can provide specific information so you can get the help you need.

Property Return

In some criminal cases, personal property is held as evidence by law enforcement or by the court. We can help get your property back after the case is concluded.

Employer Intervention

We can help your employer understand the emotional stress you may be experiencing as a crime victim, and we may intercede with him/her to explain why you must miss work for court and/or for other related reasons.

Restitution Assistance

If you have suffered a financial or property loss as a direct result of crime, we can help you try to recover your loss by filing a Victim Impact Statement with the court.

Credit Intervention

As a victim, your injuries or court appearances may affect your earnings. Our staff can intervene with creditors to explain your situation and encourage them to work with you.

Victim Compensation Claims

Victims, or their families, may be eligible for reimbursement through California's Victim of Crime Program for out-of-pocket expenses resulting from a crime, including medical and hospital expenses, lost wages or support, funeral expenses, mental health counseling, and job retraining or rehabilitation. We will advise you on your eligibility for the program and help you prepare and submit a claim to the state.

As a victim of crime, you have the right to ...

- be treated with dignity and compassion
- be protected from intimidation and harm
- be informed about the criminal justice system and the status of your case
- be informed of social services and resources available in the community
- have help in dealing with the system
- have your opinions considered at the sentencing and parole phases of a criminal case, and
- if you qualify under the state guidelines, be compensated for your injuries, wage property losses, and funeral expenses
- For information on the recently enacted victim's bill of rights, please see the enclosed *Marsy's Law* information

Solano County Courthouse Locations

- | <u>Fairfield</u> | <u>Vallejo</u> |
|--------------------|-----------------------|
| • 530 Union Avenue | • 321 Tuolumne Street |
| • 600 Union Avenue | |

District Attorney's Office Locations

- | <u>Fairfield</u> | <u>Vallejo</u> |
|---|--|
| • 675 Texas Street
Suite 4500, 4 th Floor | • 321 Tuolumne Street
2 nd Floor |

What Every Witness and Victim of Crime Should Know
Rev: January 2009

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The Solano County
District Attorney's Office

Donald A. du Bain
District Attorney

What to Do as a Witness

Your Testimony

Before you get to court, don't try to memorize what you are going to say. Instead, try to picture the scene, the objects there, the distances, and what happened. This will help you recall the details when you are asked about them. Then testify only to the facts, as you know them. During the "direct examination," the Deputy District Attorney will ask you questions. When this questioning is completed, the defense attorney will test your memory of the facts. This is called "cross-examination." The questions by both lawyers should have only one purpose -- to bring out the truth about what you know.

Don't be afraid of cross-examination. Although it may seem like it, it is not a personal attack on you. It is an attempt to test your recollection to see how your memory of the facts compares with the memory of others.

Be Attentive and Think Before You Speak

Listen carefully to the question being asked. Be sure that you understand the question before answering. If you don't understand the question, ask that it be rephrased until you are able to understand what is being asked. Give the question as much thought as you need in order to give an accurate answer. If you did not state your answer correctly, make it right immediately.

Answer the Question

Don't volunteer information, which has not been asked for. If you are interrupted in the middle of your answer, you may ask the judge's permission to finish.

If you don't want to answer a question, don't ask the judge whether it is an improper question. If it is improper, the prosecuting attorney will object. Stop instantly, however, when the judge interrupts you or when an attorney objects.

Tell the Truth

Honesty is the best policy. Even a so-called "minor fabrication" can completely discredit you as a witness and weaken the case. So, testify accurately about the facts. If you **tell the truth**, you will have nothing to fear on cross-examination.

Speak Clearly

Be sure to answer "yes" or "no" rather than simply nodding. Avoid distracting mannerisms, like chewing gum or placing your hands in front of your mouth.

What to Do as a Witness

Stick to the Facts

The court is interested only in facts. Therefore, don't give your conclusions and opinions. Beware of questions about distance and time. If you estimate, make sure that everyone knows it is an estimate.

Don't Guess or Speculate

If you don't know the answer to a question, say that you don't know. On the other hand, give positive, definite answers when you do remember. Also, when you are certain about a fact or answer, don't say "I think" or "I believe."

Be Fair

Although you may be testifying for a friend, don't exaggerate your testimony or slant it in his/her favor.

Be Courteous

Always be courteous, even if it appears that the defense attorney is not. Being courteous makes a good impression on the judge and the jury. Don't be afraid to answer "Yes, sir/ma'am" and "No, sir/ma'am" and to address the judge as "Your Honor." Never argue or respond with "smart aleck" remarks.

Don't Lose Your Temper

If you lose your temper, you place yourself at the mercy of the cross-examiner. In fact, you are more likely to make a mistake when you are angry. Courts are interested only in the facts of the case. Hold your temper, and your testimony will be much more valuable.

Look at the Jury

Don't be afraid to look at the jury and tell them your story. Jurors want to hear what you have to say.

Dress Appropriately

Respect the dignity of the court.

The Solano County District Attorney's Office Donald A. du Bain, District Attorney

675 Texas Street, Suite 4500
Fairfield, CA 94533
(707) 784-6800

321 Tuolumne Street, 2nd Floor
Vallejo, CA 94590
(707) 553-5321

Marsy's Law

Prop 9 – Victims' Bill of Rights Act of 2008

On November 4, 2008, the People of the State of California approved Proposition 9, the Victims' Bill of Rights Act of 2008: Marsy's Law. This measure amended the California Constitution to provide additional rights to victims. This card contains specific sections of the Victims' Bill of Rights.

A 'victim' is defined under the California Constitution as, "a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term 'victim' also includes the person's spouse, parents, children, siblings, or guardian, and includes a lawful representative of a crime victim who is deceased, a minor, or physically or psychologically incapacitated. The term "victim" does not include a person in custody for an offense, the accused, or a person whom the court finds would not act in the best interests of a minor victim." (Cal. Const., art. i, § 28(e).)

Marsy's Rights

California Constitution, Article i, Section 28(b)
In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following rights:

1. To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.
2. To be reasonably protected from the defendant and persons acting on behalf of the defendant.
3. To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.
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.
5. 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.
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 prosecutor, 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.
7. To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.

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.

9. To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.

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.

11. To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.

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.

13. To restitution.

A. it is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to seek and secure restitution from the persons convicted of the crimes causing the losses they suffer.

B. Restitution shall be ordered from the convicted wrongdoer in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss.

C. All monetary payments, monies, and property collected from any person who has been ordered to make restitution shall be first applied to pay the amounts ordered as restitution to the victim.

14. To the prompt return of property when no longer needed as evidence.

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.

16. To have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment release decision is made.

17. To be informed of the rights enumerated in paragraphs (1) through (16).

A victim, the retained attorney of a victim, a lawful representative of the victim, or the prosecuting attorney upon request of the victim, may enforce the above rights in any trial or appellate court with jurisdiction over the case as a matter of right. The court shall act promptly on such a request. (Cal. Const., art. i, § 28(c)(1).)

Crime victims may obtain additional information regarding Marsy's Law by contacting the Victims of Crime Resource Center at 1-800-VICTiMS or 1-800-842-8467. You can also call the Solano County District Attorney's Crime Victim Assistance Program at (707) 784-6800.

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