

INTRODUCTION

This pamphlet briefly describes the criminal justice process. It is not intended to answer all the questions that you might have, but it is one way to help de-mystify your journey through the criminal justice system. We hope that it is helpful.

The criminal justice system is comprised of several distinct groups of people: the judge who presides over the cases and makes the ultimate decisions regarding legal matters, the District Attorney and his staff who are responsible for prosecuting those who commit crimes, the defense attorney who represents the defendant who is charged with the crime, and the victim. All defendants charged with a crime are presumed innocent until proven guilty beyond a reasonable doubt. In California anytime a defendant faces a possible jail or prison sentence, he or she has the right to a jury trial where 12 jurors chosen from the community decide the guilt of the defendant. Historically, the criminal justice system has primarily focused on preserving the rights of the defendant and not the victim. However, in recent years, those involved in the criminal justice system have fought to increase awareness of victims' concerns and have developed a number of rights for victims. The primary focus is still on the defendant, but victims may be assisted by agencies who serve our community and act as a voice for victims in the criminal justice system. If you need assistance or have questions, we are available to help you.

FILING OF CHARGES

The criminal process starts with the filing of a criminal complaint which is the document that lists the charges against the defendant. The District Attorney's Office has the sole responsibility for deciding what charges, if any, should be filed. Charges can be in the grade of infraction, misdemeanor or felony. Infractions are punishable by a monetary fine, misdemeanors by county jail and/or a fine, and a felony by state prison or county jail and/or a fine. A defendant may be brought to court by several methods: 1) a warrant for the arrest of the defendant may be issued

by the court; 2) a letter may be sent to the defendant asking him/her to surrender to the jail; 3) the defendant may already be in custody and will be brought to court by the jail; or 4) other arrangements may be made to have the defendant voluntarily appear in court. The seriousness of the crime, the likelihood of the defendant fleeing, and the danger to the public are all considerations in determining which method is used.

ARRAIGNMENT

The first court appearance is called an arraignment. At the arraignment, the defendant is informed of the charges, appointed an attorney if he/she cannot afford one, and is asked for a plea. It is extremely common for a defendant to plead "not guilty" at this stage. The judge decides whether a defendant should be required to post bail or be released on his/her own recognizance. The same issues of danger to the public, the likelihood of flight and the seriousness of the crime are all considered. The more serious the case, the higher the bail. The judge can also order conditions on any release such as a "stay away" order, drug testing, etc. Finally, the next court date will be set. The defendant is given a court date which is determined by the court calendar.

PLEA/SETTLEMENT CONFERENCES

The plea/settlement conference is primarily for the attorneys and the judge to discuss the case to determine whether any settlement is possible. This is when a deputy district attorney will make a settlement proposal. If you would like to have input regarding this proposal, you should contact our office as soon as possible. If the case is not resolved following these settlement conferences, the matter is confirmed for trial or preliminary hearing on the date previously set.

PRELIMINARY HEARINGS & THE FELONY PROCESS

The preliminary hearing is a brief evidentiary hearing at which the deputy district attorney presents to a judge enough evidence so that he/she has probable cause to believe a crime has occurred and the defendant is the one that committed the crime. It is not a trial and the defendant is not found guilty. The preliminary hearing is a screening process to make sure only cases that are supported by evidence go to trial. Witnesses are called to testify and are questioned by the attorneys in front of the judge. You may be required to testify depending on the case and the circumstances. The defendant is also entitled to be present. If there is not enough evidence on any particular charge or the case as a whole, the judge will dismiss the charge or case. Following a successful preliminary hearing, a new second arraignment is set in Felony Superior Court where an "information" (the document specifying the charges similar to a complaint), is filed. Again, the vast majority of defendants plead "not guilty" at this stage.

JURY TRIAL PROCESS

Before the trial date you will probably receive a subpoena from either or both the district attorney or the defense attorney. The subpoena will usually direct you to be in court on a particular date and time. Sometimes, witnesses and victims are excluded from the courtroom. This is normal to prevent witnesses from listening to the testimony of others and affecting their testimony. There is a limited exception to that rule for victims of serious and violent crimes.

On the trial date, attorney's may first address some legal matters before a jury is selected. Once the jury is chosen, evidence will be presented. To convict a defendant, the jury must be convinced by the prosecution beyond a reasonable doubt that the defendant is guilty of any or all of the crimes charged. After all evidence has been presented, the jury will render its verdict. If the defendant is found

"not guilty" of all charges, he will be released on that case immediately. If the jury cannot reach a verdict, known as a "hung jury", the judge will declare a mistrial. This means the defendant can be tried again for the same charges. If the jury finds a defendant guilty of any of the charges, the judge will set a sentencing date and refer the matter to the probation department for their recommendation for sentencing.

SENTENCING

On the sentencing date, the judge will consider the probation department recommendation, if one is prepared, the circumstance of the crime, the defendant's background, the victim's statement and any argument or other evidence presented by the attorneys. If you wish to have input, it is very important that you send a letter to the probation department or the Victim/Witness or Victims' Rights Unit of the District Attorney's Office as soon as possible after the conviction, stating your views of the case, your opinion regarding the appropriate sentence and the monetary amount of any loss suffered with receipts if available. Do not wait for the probation department to contact you. At the sentencing hearing, as the victim, you may have the right to speak to the judge about the appropriate punishment for the defendant.

For felonies, the judge may sentence the defendant to a term in State Prison or place the defendant on a grant of probation for up to 5 years and time in the local county jail. For misdemeanors, the judge may sentence the defendant to time in the county jail and place him/her on probation for up to 3 years. If the defendant is placed on probation, he/she will have certain conditions and restrictions placed upon his/her life, they may include the payment of restitution, a stay away order, drug or alcohol testing and search and seizure clauses. The defendant may also have to report to a probation officer.

If a defendant violates any term or condition of probation, he/she can be arrested and punished by additional county jail time or, if a felony, prison.

For More Information, Please Call

Tehama County Victim/Witness Program
(530) 527-4296
P.O. Box 519
444 Oak Street
Red Bluff, CA 96080

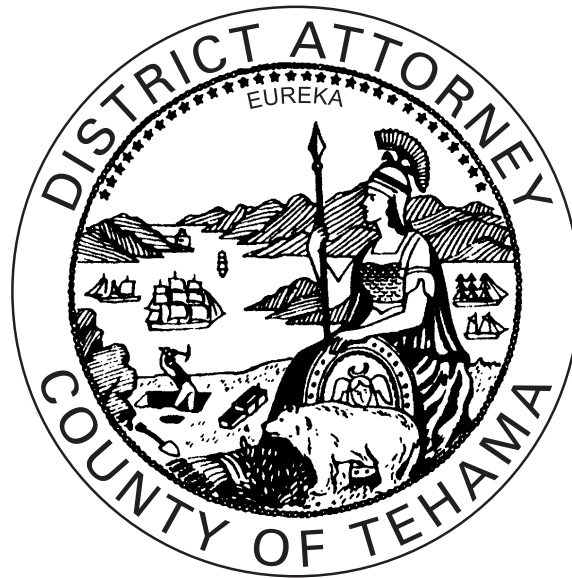
Tehama County District Attorney
(530) 527-3053

Victims of Crime
1-800-VICTIMS
1-800-842-8467



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TEHAMA COUNTY DISTRICT ATTORNEY



VICTIM INFORMATION PAMPHLET

FREQUENTLY ASKED QUESTIONS ABOUT THE CRIMINAL JUSTICE SYSTEM

1. *Do I have to talk to a defense investigator or attorney?*
A. No. A witness or victim has the right to talk to or refuse to talk to anyone they choose until and unless they are subpoenaed to court where a judge orders the witness to speak. Further, the law now states that a private investigator must clearly identify themselves as a defense investigator. The best way to know to whom you are speaking is to insist on a business card or some other form of identification.
2. *Will I have to testify at the preliminary hearing?*
A. Not necessarily. The law allows for certain peace officers to testify about what a witness or victim told them. The deputy district attorney handling the case will make the final decision as to whether or not your testimony will be needed at the preliminary hearing. You may still have to testify at the trial.
3. *Can I recover for medical bills, lost wages or property damage or loss?*
A. Yes, with some exceptions.
4. *How long will a misdemeanor or felony prosecution take?*
A. Generally, a misdemeanor case can go from arraignment to sentencing in about 2 or 3 months. A felony case can take from 3 to 6 months on average. The more serious the case, the longer it may take.
5. *What if I have other plans that conflict with my subpoena and the trial date?*
A. You should immediately contact each party that sent you a subpoena and inform them of the conflict.
6. *Does the deputy district attorney represent the victim?*
A. No. The deputy district attorney represents the People of the State of California, not the individual victim. The deputy district attorney must ensure that justice is done. Usually, this means we are seeking the same outcome as the victim, but sometimes it is not.
7. *When can I get my stolen property back?*
A. Usually 60 days after the defendant is sentenced. Sometimes, property can be photographed and returned to the victim prior to that time.
8. *Can I attend the court proceedings?*
A. Yes. All court proceedings in adult court are public, meaning that anyone can attend unless the court specifically excludes a witness or victim from the courtroom during testimony or other witnesses.
9. *What if I don't want to prosecute anymore?*
A. The ultimate decision of going forward with the case is up to the deputy district attorney. Although a victim's feelings will be considered, the District Attorney's Office does not represent the victim, but represents society's interests.