

Information About the Criminal Justice System



As a victim or witness, your cooperation is vital to the effective operation of the criminal justice system

CRIMINAL JUSTICE SYSTEM PARTICIPANTS

The criminal justice system involves several distinct participants. Each is an integral part of the system. Below, each participant is identified and their role in the criminal justice system described:

Victim

The victim is the individual who has suffered injury, loss of life, loss of property or other indignity. The victim is usually an individual, but can be a business or other entity. 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. Victims now have others to help them overcome the pain, distress, indignity, and inconvenience of being a victim. Several agencies exist to serve victims in our community and act as a voice for victims in the criminal justice system. For any questions regarding this information or should you need assistance, please contact the Lassen County Victim/ Witness Assistance Program at **(530) 251-8281**.

Law Enforcement

The various law enforcement agencies in Lassen County respond to the report of a crime and investigate the crime. Law enforcement agencies are responsible for identifying witnesses, gathering information, and collecting evidence. Once the investigation is complete, the law enforcement agency refers the case to the Office of the District Attorney if a criminal complaint is sought against the offender. The law enforcement agencies in Lassen County include the Susanville Police Department, the Lassen County Sheriff's office, the California Highway Patrol, the Department of Fish and Game, and others.

District Attorney

The District Attorney has the primary responsibility for prosecuting those who commit

crimes in Lassen County. The District Attorney and their attorneys review police reports submitted by law enforcement agencies to determine whether or not criminal charges should be filed against a suspect. If criminal charges are filed, the District Attorney is responsible for prosecuting the case in court to its conclusion. The District Attorney is charged with the responsibility of enforcing the laws to the ultimate end of seeing that justice is done.

Judge

The judge is the person who presides over the cases and makes the ultimate decisions regarding legal matters. The judge is required to be a neutral or impartial party in the court proceeding. The judge is responsible for imposing a sentence on a defendant after a conviction.

Defense Attorney

The defense attorney represents the defendant who is charged with the crime. The defense attorney's responsibility is to zealously represent the defendant. Sometimes the defense attorney is appointed for the defendant by the County free of charge (Public Defender), and sometimes the defendant hires his or her own attorney.

THE COURT PROCESS

Filing of Charges/ Rejections

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 has the sole responsibility for deciding what charges, if any, should be filed.** Charges can be in the grade of an 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.

The District Attorney can choose not to file charges. If charges are rejected you can write out a

statement giving more information about the incident and submitting it to the District Attorney for re-review. It will still be up to the District Attorney to file charges or not.

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; 4) or 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 a defense attorney, if he or 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 next decides whether a defendant should be required to post bail or be released on his/her own recognizance ("OR"). The same issues of danger to the public, likelihood of flight and seriousness of the crime are all considered. The judge can also order conditions on any release such as a "stay away" order, drug testing, etc. Finally, the next court dates will be set. The dates and times cases are set are based on whether the case is charged as a felony, a misdemeanor or as an infraction.

Dispositional Conferences/Trial Readiness

The pre-preliminary hearing conference and the dispositional conference are primarily for the prosecutor, defense attorney, and the judge to discuss the case and determine whether any settlement is possible. Sometimes this occurs in the judge's chambers. This is when the prosecutor can make a settlement proposal (plea bargain).

Preliminary Hearing

Following the initial arraignment on a felony criminal complaint, a defendant has the right to a preliminary examination or hearing. This is not a trial, but a hearing at which a judge listens to the evidence of the crime and determines whether it is sufficient to require the defendant to stand trial. The preliminary hearing is not a trial and the defendant is not found "guilty" or "not guilty." Normally, just enough evidence is presented to convince the judge to "hold" the defendant for a trial. Thus, the judge issues a "holding order" if sufficient evidence is produced. Witnesses are subpoenaed to testify at these hearings and the defendant is present throughout the proceeding. Following a successful preliminary hearing, the District Attorney may file an Information. The Information, like a Complaint, is a document which lists the charges against the defendant that were proven at the preliminary hearing. The defendant is then arraigned a second time, but this time on the Information in the Superior Court.

Jury Trial

All defendants charged with a crime are presumed innocent until proven guilty beyond a reasonable doubt. The District Attorney has the burden of proving guilt 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 or innocence of the defendant. The time when the trial is to take place depends on whether the charges are misdemeanor or felony charges. Cases involving both felony and misdemeanor offenses in the same charging document are controlled by the felony trial schedule.

TIME FRAMES FOR TRIALS

Under California law, a defendant charged with a felony charge must be brought to trial within 60 days of the arraignment on the Information unless that right is waived by the defendant.

Under California law, a defendant charged with a misdemeanor must be brought to trial within 30

days if the defendant is in custody or 45 days if the defendant is not in custody unless that right is waived by the defendant. Witnesses must testify at trial. Even in felony cases in which the witness may have testified and been thoroughly questioned at the preliminary hearing, a witness may be called to testify again.

Discovery

The pre-trial procedure by which evidence and information is provided to the defense by the prosecution is called "discovery." This information includes police reports, witness statements, information potentially impacting the credibility of witnesses, and any other information that might tend to show the defendant's guilt or innocence. The scope of discovery is quite broad.

Subpoenas

A subpoena is a document which represents a court order directing a witness to be present for court at the time and place stated. Subpoenas may be received from the District Attorney, the defense attorney or both. The subpoena is served in person, usually by an officer of law. Court hearings do not always take place on the precise day or time scheduled. If the court calendar conflicts, it could be due to the unavailability of essential witnesses, or a legal motion may cause a case to be delayed or "continued."

Sentencing

On the sentencing date, the judge will consider a variety of information to formulate an appropriate punishment for the defendant. This information includes a probation department recommendation, if one is prepared, the circumstances of the crime, the defendant's background, the victim's impact statement and any argument by the attorneys. A victim who wishes to have input should send a letter to the probation department or the District Attorney's Office as soon as possible after the verdict or plea of guilty, stating the victim's views on the case, the impact upon them due to the crime that occurred, any opinion regarding the appropriate sentence, and the monetary amount of any crime related loss suffered (with receipts or

documentation). At the sentencing hearing, the victim has an absolute right to speak in open court about the appropriate punishment through a Victim Impact Statement.

Probation

Probation is a court-imposed sentence that places conditions on a convicted individual and releases that person into the community instead of sending them to jail or instead of sending them to jail for the entire length of their sentence. If a defendant is placed on probation for, either a misdemeanor or felony, certain conditions and restrictions will be placed on him or her. These may include fines, payment of restitution, a stay away order, drug or alcohol testing, and search and seizure clauses. The defendant may also be supervised by a probation officer.

Parole/Post-Release Community Supervision

If the sentence includes being sent to state prison or local prison (at the county jail), the individual may be released from prison/ jail before serving his/her full sentence by being granted parole or post-release community supervision. The parolee is subject to terms and conditions which, if they violate, can result in their being returned to prison/jail.

Evidence

If your property was taken as evidence by law enforcement it can take a while for you to get it back. Typically, if the crime report is submitted to the District Attorney's Office it cannot be released to the rightful owner without the District Attorney filing an Evidence Release form. Depending on what items were seized as evidence will determine if it will be released or destroyed. If charges are filed and a case goes to trial it could take up to 60-90 days post trial for the Evidence Release form to be submitted.

TESTIFYING AS A WITNESS

Being a victim or witness to a crime is seldom a pleasant experience. However, much of the frustration associated with being a witness is not knowing what to expect. The process of justice takes time. Patience and commitment are essential.

Witnesses are called to testify about what they saw, heard, or did which may be relevant to the charges against the defendant. The party calling a witness to the witness stand asks questions of the witness first. Next, the opposing attorney has the right to "cross-examine" the witness. Witnesses are often excluded from the court room 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 following are some pointers to aid in being a good witness:

- + **Above all, be truthful.** Tell the facts, simply and concisely.
- + **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 and do not volunteer information that is not requested.
- + **Do not guess.** Give definite answers whenever possible.
- + **Remain calm and courteous.** Do not become angry, as it may diminish the impact of the testimony.
- + **Speak clearly and loudly.**
- + **Dress neatly and always show respect for the court.**
- + **Be prepared.**
- + **Be yourself.**