

# **THE SENTENCING HEARING AND YOUR RIGHTS AS A CRIME VICTIM OR NEXT KIN**

At this point in the criminal justice process, the defendant has either: 1) entered a guilty plea or “no contest” pleas to some or all the charges; or 2) been found guilty by jury or court at the conclusion of a trial. If you have questions regarding the guilty plea or the guilty verdict, discuss these with your Victim/Witness Advocate.

The next step in the process is the SENTENCING HEARING. That hearing is typically scheduled within 30 court days of the guilty plea or conclusion of the trial. The 30-day time frame allows the Probation Department enough time to prepare a report for the Court with recommendations for sentencing.

## **Marsy’s Laws, Victims’ Rights and Sentencing**

On November 4, 2008, California voters approved Proposition 9, “Marsy’s Law”, also known as the Victim’s Bill of Right Act of 2008. This measure amended the California Constitution to provide additional rights for the victims and redefined the term “victim.” Victim is now defined as “a person who suffers direct or threatened physical, psychological or financial harm as a result of the commission of a crime or delinquent act. The term “victim” also includes the person’s spouse, parent, children, siblings or guardian, and includes a lawful representative of a crime victim who is deceased, a minor or physically or psychologically incapacitated.” Article I Section 28(b) of the California Constitution includes the right of a victim to “be heard, upon request, at any proceedings, involving a post-arrest release decision, plea, sentencing, post- conviction release decision, or any proceeding in which a right of a victim is at issue.” Please consult with you Victim/Witness Advocate about this right.

## **Who Can Make a Statement at Sentencing?**

The victim  
The parents or guardians if the victim is a minor  
The next of kin if the victim is deceased

## **What can be included in the Impact Statement?**

Your views concerning the crime, including the impact upon you and your family;  
Your views regarding the person responsible;  
Your request for restitution to cover funeral / burial cost, wages loss, counseling expenses and other crime-related expenses.

# VICTIM IMPACT SENTENCING STATEMENT

## IMPACT STATEMENT TIPS

- a. Keep the statement to one page or less if you can.
- b. Direct your comments to the judge (Court) rather than directly to the defendant.
- c. This is YOUR opportunity to tell the court, and defendant, how the crime impacted your life and the lives of you family members in YOUR words—Simple, direct statements are usually most effective.
- d. You may speak directly to the judge without a written stamen if you prefer- it will also become a part of the Court record.
- e. You may read your statement out load in court at the sentencing hearing or your Victim/ Witness advocate can read your statement for you if you prefer.

Your Name: \_\_\_\_\_

Defendant's Name: \_\_\_\_\_

DA CASE#: \_\_\_\_\_ Court Case #: \_\_\_\_\_

- 1) How has this crime affected you and those close to you? Please feel free to discuss you're feeling about what has happened and how it has affected you're general well-being. Has this crime affected your relationship with any family members, friends, co-workers, and other people? As a result of this crime, if you or others close to you have sought any type of victim services, such as counseling by either a licensed professional, member of the clergy, of a community- sponsored support group, you may wish to mention this.
- 2) What physical injuries or symptoms have you or others close to you suffered as a result of this crime? You may want to write about how long the injuries lasted, or how long they are expected to last, and if you sought medical treatment for these injuries. You may also want to discuss what changes you have made in your life as a result of these injuries.
- 3) Has time crime affected your ability to perform your work, make a living, run a household, go to school or enjoy any other activities you previously performed or enjoyed? If so, please explain how these activities have been affected by this crime.
- 4) You may want to discuss any restitution issues or losses you may have suffered due to the crime.

### **WORKING WITH YOUR VICTIMS/ WITNESS ADVOCATE**

The Victim Witness Advocate will help you prepare for the SENTENCING HEARING by informing you of your RIGHTS and answering any questions you may have about those rights. This may include information about the sentencing hearing and other part of the criminal justice process, such as appeals, restitution orders and collections, conditions of probation, the offenders release from prison and in some cases, parole hearings.

### **THE ROLE OF THE PROBATION DEPARTMENT (805) 781-5300**

In most cases, the Probation Department will be directed by the judge in the case to prepare a pre-sentencing report and recommendation. To prepare this report, a deputy probation officer will review the crime report and other court documents, interview the defendant, include input from both the defense attorney and the prosecutor and contact the victim, parents of a minor victim, or next of kin if the victim has died.

When you are contacted by Probation, you will want to provide information on your views of the crime and its impact upon you and your family, what you think should happen to the defendant and restitution is needed. This information will be included in the report that the Probation Department gives to the court to help the judge decide on a sentence.

### **RESTITUTION ORDERS AND COLLECTIONS**

Under California Law, victims of crime have the right to restitution for economic loss as a result of the offenders conduct. In addition, the court is required to fine the offenders for the crime.

Documentation of your losses needs to be provided to the Victim/Witness and/or a deputy probation officer preparing a PRE-SENTENCING REPORT & RECOMMENDATION prior to the sentencing hearing so that judge can make it part of the order.

**If you have been assisted by the State Victims of Crime Victim Compensation Program (VCP) and received benefits from that Program, the offender may be ordered to pay that Program back.**

### **IF THE OFFENDER IS PLACED ON PROBATION**

The Probation Department's Collection Unit will send you a Statement of Loss form. You must fill out the form, sign the form and attach all receipts or estimated and fax or mail forms back to the Probation Department. The collection unit will work to collect your restitution from the defendants once he/she is released from custody. Either way, information of your losses needs to be provided to the Probation Department prior to the disposition hearing so that the judge can make it part of the order.

### **CONTACT WITH THE MEDIA**

Crime victims, family members and significant others may be approached by the media to make statements regarding the case and/or your thoughts and feeling regarding punishment of the offender. Please keep in mind that IT IS YOUR CHOICE WHETHER OR NOT TO SPEAK TO THE MEDIA. If you prefer to have no contact with the media, please let your Victim/Witness advocate know so they can convey this information to the media. Also, you may agree to speak to the media at a later time and place of your choosing.

Whatever you choose, it is important that you feel comfortable with your contact with the media. If you wish to have your Victim/Witness advocate present during any contacts with the media, simply let us know. Most media representatives are respectful of crime victims and will comply with your wishes, whatever they may be.

We hope you find this information helpful. For additional information, please contact the San Luis Obispo County Victim/ Witness Assistance Center at (805) 781-5821.