

# YOUR RIGHTS & LAW ENFORCEMENT RESPONSE



**Office of the District Attorney,  
County of San Luis Obispo**

1035 Palm St., San Luis Obispo, CA 93408  
805-781-5800

REPORT #: \_\_\_\_\_

AGENCY: \_\_\_\_\_

OFFICER: \_\_\_\_\_

PHONE #: \_\_\_\_\_

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# SEXUAL ASSAULT

IT IS NOT YOUR FAULT.  
NO ONE ASKS OR DESERVES TO BE HURT.

Sexual assault is any unwanted sexual act committed or attempted against a person's will. This brochure provides information about your rights and options as a survivor.

## It is a crime:

- ◆ Even if the assailant is a partner, spouse, friend, family member or acquaintance.

## ◆ It is your choice to:

- ◆ Get a physical exam
  - ◆ Be part of a criminal case
  - ◆ Report the assault
  - ◆ Speak with an advocate
- ◆ Speaking with a victim advocate can help you understand your options and the criminal justice process.
  - ◆ You have the right to report to any law enforcement agency, but the investigation will take place where the assault happened.

## It is your right:

- ◆ To contact an advocate 24 hours a day, call Lumina Alliance (805) 545-8888. Advocates are available through the advocacy organizations listed on the back cover of this booklet.
- ◆ To have a victim advocate, and at least one other support person of your choice, present during any examination and/or interview, unless that person is disruptive to the investigation.

## Your rights continued...

- ◆ To request to be listed confidentially in the police report
- ◆ To obtain a free copy of the initial police report
- ◆ To communicate with your investigator and receive the case number along with updates on your case

To obtain case information you will need to contact the law enforcement agency with jurisdiction in the area where the sexual assault took place.

Please keep in mind that a police investigation can often take months to complete due to many different factors.

Contact the California Attorney General's Victims' Services Unit for a general location and status of the evidence from your sexual assault kit based on data entered into the SAFE-T database. Or Contact the local law enforcement agency that handled your case.

**California Attorney General's Office -  
Victims' Services Unit**

**1-877-433-9069**

## SEXUAL ASSAULT VICTIM'S DNA BILL OF RIGHTS

California Penal Code section 680 gives certain rights to sexual assault survivors related to the testing of DNA.

**Upon request**, a sexual assault survivor has the right:

1. To be informed whether a DNA profile of the suspect was obtained from testing of the forensic evidence.
2. To be informed whether a DNA profile of the suspect has been entered into the California Department of Justice database, provided this disclosure would not compromise an ongoing investigation. Receive the tracking number and steps necessary to get follow up information.
3. To the offender's sex offender registry information, if convicted.
4. To be informed that DNA and other types of forensic evidence can degrade or breakdown over time due to exposure to heat, water, and other materials in 12 hours to 7 days.
5. To know if the evidence related to your assault will be tested, and that it should be transported to the laboratory and analyzed within 24 months.
6. To be informed if law enforcement chooses not to test DNA evidence.

## DNA Bill of Rights continued...

7. To be notified if law enforcement intends to dispose of medical examination evidence, or other crime scene evidence, from unsolved sexual assault cases before the expiration of the criminal statute of limitations.
8. To receive written notification, at least 60 days prior to either of the events described above (#6 or #7).
9. To know sexual assault evidence is kept by the investigating law enforcement agency or crime laboratory for at least 20 years, or if a survivor was under 18 years old when the assault occurred, at least until the survivor's 40th birthday.

YOU HAVE THE RIGHT TO BE INFORMED whether or not the medical examination evidence is analyzed within 18 months of your assault.

A sexual assault survivor may designate a third party, such as a victim advocate or other support person of their choosing, to act as recipient of the above information.

## DOMESTIC VIOLENCE

**DOMESTIC VIOLENCE**, also known as **INTIMATE PARTNER VIOLENCE**, refers to the pattern of physical and sexual violence, intimidation, threats of violence and emotional abuse used by a suspect to gain power and control over an intimate partner.

Many of those acts—physical violence, sexual assault, threats, and stalking behaviors—violate criminal laws in California.

If you are a survivor of domestic violence, you are not alone and it is not your fault: **1 in 3 women** and **1 in 4 men** have experienced physical violence by an intimate partner.

Without some type of intervention, violent behavior often continues, becoming more frequent and severe.

## LAW ENFORCEMENT RESPONSE TO DOMESTIC VIOLENCE

In an emergency, survivors of domestic violence should immediately call the police for help. Officers responding to emergency domestic violence calls will make sure everyone is safe. Officers will talk to those involved and conduct an investigation to find out what happened.

Both California law and law enforcement policy require:

- ◆ A police report be written when officers respond to a call involving domestic violence.
- ◆ An arrest of the person determined to be the primary aggressor— even if the survivor does not want an arrest.

## PROSECUTION OF DOMESTIC VIOLENCE

After a police report is written, it will be sent to the District Attorney's Office for review and possible charges.

**You have the right** to ask the District Attorney's Office to file a criminal complaint. However, they make the final decision regarding criminal charges, including whether a case is filed and whether it will be prosecuted as a felony or a misdemeanor.

It is important to understand it is the **District Attorney's Office** who files charges against the abuser, not you. The District Attorney's Office has a team of trained Deputy District Attorneys and support personnel that handle domestic violence cases. You can reach the District Attorney's Office at the following number:

**Office of the District Attorney,  
County of San Luis Obispo: (805)781-5800**

## DOMESTIC VIOLENCE EMERGENCY SHELTER

For information about a shelter (or emergency housing) you may contact the following 24-hour crisis line:

Lumina Alliance (805) 545-8888



## STRANGULATION

***If you have been strangled, you are strongly encouraged to seek immediate medical attention at an emergency department and seek support from a victim advocate.*** Any pressure applied to your neck during a domestic violence incident or a sexual assault could be dangerous.

SB40 Strangulation: “I have a duty to warn you that strangulation is serious and can cause internal injuries, brain damage and/or delayed health consequences such as strokes, thyroid issues, miscarriage, and/or death. Research shows that if you are strangled even one time, you are 750% more likely to be killed by your partner. We strongly encourage you to seek immediate medical attention at an emergency department and ask for support from an advocate.”

## STALKING

YOU ARE NOT TO BLAME FOR A STALKER'S BEHAVIOR

**STALKING** is a pattern of unwanted behaviors directed toward a specific individual that would cause a reasonable person to fear for their physical safety.

A stalker is someone who engages in some, or all, of the following:

- ◆ Follows you and shows up where you are
- ◆ Sends unwanted gifts, letters, cards, or e-mails
- ◆ Damages your home, car, or other property
- ◆ Monitors your phone calls or computer use
- ◆ Uses technology to track where you go
- ◆ Threatens to hurt you, your family, friends, or pets
- ◆ Takes other actions that control, track, or frighten you

If you think you are being stalked, notify your local law enforcement agency.

## HUMAN TRAFFICKING

### MODERN DAY SLAVERY

Under Federal law, “severe forms of trafficking of persons” include both sex trafficking and labor trafficking.

**Labor trafficking** is the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purposes of subjecting that person to involuntary servitude, debt bondage or slavery.

**Sex trafficking** is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purposes of a commercial sex act, in which the commercial sex act is induced by force, fraud, or coercion.

## SIGNS OF A TRAFFICKER

- ◆ False advertisement for “modeling”, “acting” or “dancing” opportunities
- ◆ Internet enticement through chat rooms
- ◆ Peer recruitment (group homes, school, etc.)
- ◆ Much older boyfriend/girlfriend
- ◆ Kidnapping
- ◆ Use of violence and force

**If you or someone you know needs help call:  
National Human Trafficking Hotline: (Polaris Project)  
1(888) 373-7888 or text “Be Free” to 233733**

## ASK YOURSELF THESE QUESTIONS...

- ◆ Has anybody ever threatened to keep you from leaving?
- ◆ Has anybody ever hurt you to keep you from leaving?
- ◆ Has your family been threatened or hurt?
- ◆ Did someone take away your ID or other documents?
- ◆ Is someone forcing you to work for them to pay off a debt?

If your answer is yes to any of these questions, you may be a victim of human trafficking. There is support for you. Call a victim resource provider to access services that could help with both short and long term needs.

Resources are listed on the Advocacy Organization page in this booklet.

## PROTECTIVE ORDERS

**Survivors of Sexual Assault and Domestic Violence have the right** to request protective orders from the court.

Under AB 2337 employers with 25 or more employees cannot terminate, or in any way discriminate or retaliate against an employee who is a victim of domestic violence, sexual assault, or stalking for taking time off from work for reasons related to that victimization, including: seeking medical attention, obtaining victim services, participating in safety planning, or receiving counseling.

## Protective orders continued...

Several different types of protective orders may be available.

- ◆ **Emergency Protective Order (EPO):** When a survivor has been abused by a current/former intimate partner, or parent of a child-in-common, or is a victim of stalking and the abuser poses an immediate danger, law enforcement may request an EPO from a judge. **EPO's are valid for 5 business days** and allow the survivor time to seek a longer term protective order. Victims of human trafficking may receive an EPO.
- ◆ **Domestic Violence Restraining Order (DVRO):** When two people are, or were, in an intimate or dating relationship, have a child-in-common, or are related, a survivor may be able to request this type of order. Recent violence, or a threat of violence, is needed for a judge to consider granting the order.
- ◆ **Civil Harassment Restraining Order (CHRO):** When two people are not related and one party has a concern about their safety based on recent violence, or a threat of violence, they may be able to request this type of order. Victims of human trafficking and sexual assault may receive a CHRO. For more information on the process visit <http://www.courts.ca.gov/1260.htm>
- ◆ **Criminal Protective Order (CPO):** If the District Attorney's Office has filed charges, a CPO may be requested as part of the criminal case. Victims of human trafficking may receive a CPO. CPO's can be issued by the Deputy District Attorney even without the victim's consent.

A victim advocate may be able to answer questions and refer you to additional resources.

***Protective orders continued...***

**For a Domestic Violence Restraining Order (DVRO)**

San Luis Obispo

Legal Assistance Foundation at (805) 781-6418

**For a Criminal Protective Order (CPO)** contact the Christopher G. Money Victim Witness Assistance Center at (805) 781-5821

**For assistance with Civil Protective Orders**

Contact the Family Law Facilitator at (805) 706-3617

For more information regarding assistance for self-represented parties with civil DVROs and CHOs, visit [www.slo.courts.ca.gov/self-help/family-law](http://www.slo.courts.ca.gov/self-help/family-law)

## CUSTODY STATUS

Even when a suspect is arrested, they may be released at any time. You will not automatically be notified of their release. If you want to receive notification of changes in the suspect's custody status, contact the victim notification service in the county of arrest.

San Luis Obispo County Jail:

(805)781-4600

Website:

slosheriff.org

VINE (Victim Notification Service)

(877) 411-5588

Website:

vinelink.com

## CALIFORNIA VICTIM COMPENSATION BOARD

**The CALIFORNIA VICTIM COMPENSATION BOARD (CalVCB)** is a state program dedicated to providing reimbursement for many crime-related expenses to eligible victims who suffer physical injury or threat of physical injury as a direct result of a violent crime. CalVCB funding comes from restitution paid by criminal offenders through fines, orders, penalty assessments and through other federal funding.

- To seek financial assistance and apply for recovery of costs directly caused by victimization through CalVCB go to: <http://victims.ca.gov/victims/howtoapply.aspx>
- Note: You may have to cooperate in the criminal case to qualify for CalVCB.

For more information about the California Victim Compensation Board contact the **Christopher G. Money Victim Witness Assistance Center**  
**(805) 781-5821**

## VICTIM'S BILL OF RIGHTS "MARSY'S LAW"

The California Constitution, Article 1, Section 28(b), confers certain rights to victims of crime, including the right:

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.

## Marsy's Law cont'd...

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.



## Marsy's Law cont'd...

### 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).





## ADVOCACY ORGANIZATIONS

### **211 of San Luis Obispo**

24-hour resource referral center:

**Dial 211**

**California Attorney General's Office—Victims' Services Unit** connects victims to local victim support and provide information and updates on appeal process.

Website:

**[oag.ca.gov/victimservices](http://oag.ca.gov/victimservices)**

Phone number:

**(877) 433-9069**

**California Victim Compensation Board (CalVCB)** helps reimburse victims for counseling, medical and dental bills, and other costs related to the crime.

Website:

**[victims.ca.gov](http://victims.ca.gov)**

Phone number:

**(800) 777-9229**

**LUMINA ALLIANCE** provides **confidential** victim advocacy and support services to victims and survivors of intimate partner violence and sexual assault.

Website:

**[luminaalliance.org](http://luminaalliance.org)**

24-hour crisis line:

**(805) 545-8888**

### **Christopher G. Money Victim Witness Assistance Center**

supports crime victims in the criminal justice system and connects victims to community resources.

Phone number: (Monday – Friday 8-5pm)

**(805) 781-5821**

### **National Sexual Assault Hotline:**

24-hour crisis line:

**1(800) 656-4673**

### **National Domestic Violence Hotline:**

24-hour crisis line:

**1(800) 799-SAFE (7233)**

### **National Human Trafficking Hotline:**

24-hour crisis line:

**1 (888) 373-7888**

**SLO County Behavioral Health** provides mental health services for adults and children.

24-hour access line:

**1 (800) 838-1381**