

Arizona State Constitution

2.1. Victims' bill of rights

Section 2.1. (A) To preserve and protect victims' rights to justice and due process, a victim of crime has a right:

1. To be treated with fairness, respect, and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process.
2. To be informed, upon request, when the accused or convicted person is released from custody or has escaped.
3. To be present at and, upon request, to be informed of all criminal proceedings where the defendant has the right to be present.
4. To be heard at any proceeding involving a post-arrest release decision, a negotiated plea, and sentencing.
5. To refuse an interview, deposition, or other discovery request by the defendant, the defendant's attorney, or other person acting on behalf of the defendant.
6. To confer with the prosecution, after the crime against the victim has been charged, before trial or before any disposition of the case and to be informed of the disposition.
7. To read pre-sentence reports relating to the crime against the victim when they are available to the defendant.
8. To receive prompt restitution from the person or persons convicted of the criminal conduct that caused the victim's loss or injury.
9. To be heard at any proceeding when any post-conviction release from confinement is being considered.
10. To a speedy trial or disposition and prompt and final conclusion of the case after the conviction and sentence.
11. To have all rules governing criminal procedure and the admissibility of evidence in all criminal proceedings protect victims' rights and to have these rules be subject to amendment or repeal by the legislature to ensure the protection of these rights.
12. To be informed of victims' constitutional rights.

(B) A victim's exercise of any right granted by this section shall not be grounds for dismissing any criminal proceeding or setting aside any conviction or sentence.

(C) "Victim" means a person against whom the criminal offense has been committed or, if the person is killed or incapacitated, the person's spouse, parent, child or other lawful representative, except if the person is in custody for an offense or is the accused.

(D) The legislature, or the people by initiative or referendum, have the authority to enact substantive and procedural laws to define, implement, preserve and protect the rights guaranteed to victims by this section, including the authority to extend any of these rights to juvenile proceedings.

(E) The enumeration in the constitution of certain rights for victims shall not be construed to deny or disparage others granted by the legislature or retained by victims.

PRE-TRIAL INVESTIGATION:

When a crime is first reported to the police, it is their job to investigate the crime. As part of their investigation, the police will interview witnesses, preserve evidence, and prepare a report that contains the results of their investigation. The report, along with other collected evidence, is then presented to the Pinal County Attorney's Office for charging review.

Additionally, the police have the responsibility of advising all crime victims of their right to be informed throughout the criminal justice process. Initially, the police are required to:

- * advise you whether or not the suspect is an adult or juvenile;
- * advise you whether or not the suspect is in custody;
- * notify you of the date, place & time of the suspect's initial appearance;
- * if the suspect is not in custody, to advise you at the earliest opportunity of the suspect's arrest;
- * provide you with an explanation of your rights and how to request them;
- * to complete a REQUEST/WAIVER FORM with YOU and give you your copy of this form for your records; and
- * tell you about emergency and support services available to you.

It is common during a police investigation for property that has become part of evidence or important to the investigation to be seized or removed. Should this happen in your case, it is normally the police agency that will consult with the prosecuting attorney to have your property returned to you as soon as possible. Reasonable efforts are always made to return property as soon as possible. However, there are circumstances where the release of property is not possible until after the conclusion of the case. In those cases, the police and prosecutor will advise you as to why your property may not be returned.

Once the police agency presents the results of their investigation to the County Attorney's Office, the County Attorney or one of his deputies will review the evidence. The Deputy County Attorney then makes a decision as to whether or not the case meets the standard required by the "Special Responsibilities of a Prosecutor" ethical rule, which is a "REASONABLE LIKELIHOOD OF CONVICTION AT TRIAL."

That standard is necessary because the prosecutor is required to work towards creating justice for all parties. Sometimes a law enforcement officer will arrest someone who *may* have committed a crime because the requirements that must be met for an arrest are far less than a "Reasonable Likelihood of Conviction." A police officer does not have to have all evidence available at the time an arrest is made. The officer must only believe that, based on his training and experience, there is a probability that the person being arrested probably

committed the crime. The prosecutor, on the other hand, must believe that there is enough evidence that if the case were tried with that evidence, a conviction would likely result, *before* taking the case to a grand jury.

Evidence consists of physical evidence; for example -- objects, fingerprints, etc.; interviews from victims, suspects and witnesses; photographs; and/or admissions from the suspect. Rarely will only one type of evidence be enough to meet the standard. For example, under certain circumstances, an admission by the suspect that he committed the crime with no other supporting evidence might not be enough to constitute a reasonable likelihood of conviction.

The Deputy County Attorney has several different options at this point in the system. A decision to decline charges but to request that the police agency do more work on the case is commonly referred to as "dismissed for follow-up or declined for further investigation." What this means is that the Deputy County Attorney submits a request(s) for specific things to be done by the police on the case. Once those things are completed, the police agency will then send the case back to the Deputy County Attorney for another review. There is usually not a time limitation placed on law enforcement for completion of "follow-up" work. The time limit and the prioritization of individual police agencies work is entirely up to each specific agency.

Should the Deputy County Attorney decide not to prosecute the case, the listed victim(s) will then be notified of the decision. The victim(s) will also be advised of their victim's right to talk to the prosecutor prior to the decision becoming final. This normally is done by notification that sets out a deadline for the victim to contact the prosecutor so that they may discuss the case.

Cases that have charges approved fall into one of two different categories -- felony or misdemeanor cases. Those cases that are approved for felony charges will either proceed to the Grand Jury or have a Preliminary Hearing, but the case will eventually be heard in Superior Court. Misdemeanor charges that are approved against the suspect are filed in the Justice Court, and all proceedings will take place in the Justice Court. The Deputy County Attorney does not represent you, as the victim, in this process.

FELONY CASES:

Generally, if the crime is punishable by more than one year in jail, then it will be filed as a felony charge. Anyone that is suspected of committing a felony charge has the right to a hearing to determine whether or not probable cause exists. Probable cause is sufficient evidence to justify holding a defendant for trial. There are two different types of probable cause hearings -- "*Preliminary Hearings*" and "*Grand Jury Hearings*."

PRELIMINARY HEARING:

A *preliminary hearing* is a court proceeding before a Justice of the Peace in a Justice Court or a Superior Court Judge in the Superior Court. It is a hearing to determine if there is sufficient evidence to charge a person with a felony crime. The judge shall hear only evidence that is presented during the hearing by the Deputy County Attorney, which represents the State of Arizona. The defendant has the right to be present at the hearing and to cross-examine the witnesses testifying against him. At the close of the State's presentation, including the

defendant's cross-examination of the witnesses, the judge will decide if the State has presented sufficient evidence to charge the defendant with the crime. The defendant then may present evidence in order to rebut the State's evidence. The victim has the right to attend the preliminary hearing.

Sometimes charges against the defendant are dismissed because the judge believes that there was not sufficient evidence OR probable cause to justify holding the suspect for trial. If, however, the judge determines that probable cause does exist to hold the defendant for trial, then the case is filed with the Clerk of the Superior Court for further proceedings.

GRAND JURY HEARINGS:

A *grand jury hearing* is a closed hearing held in front of a group of randomly selected citizens of Pinal County. The case is presented to the Grand Jury by the Deputy County Attorney (prosecutor), but nobody else can attend, including the victim. It is the Deputy County Attorney that generally determines which witness(es) will provide testimony to the Grand Jury. After all testimony has been presented, everyone but the Grand Jury itself is excluded from the room. The Grand Jury then votes and makes their determination as to probable cause. If there is sufficient evidence to proceed, an Indictment is issued from the Grand Jury. The case is then forwarded to Superior Court for further proceedings.

ARRAIGNMENT:

In Superior Court, normally, the defendant first appears at an Arraignment Hearing. At an Arraignment Hearing the defendant is formally advised of the charges against them and of their rights. The Court usually enters a "not guilty" plea on the defendant's behalf. If the defendant does not have an attorney, or if they cannot afford an attorney, then the Court will appoint an attorney to represent the defendant. A Pre-Trial Conference Hearing is then scheduled for a date approximately 4 - 6 weeks from the date of the Arraignment. If the defendant is released on their own recognizance, commonly referred to as "OR", the Court will affirm the conditions of release. However, if the defendant is in custody at the time of the Arraignment, the defense attorney may ask to discuss the bond or may request a Release Hearing to reduce the conditions that the defendant must meet for release. The Deputy County Attorney will request that the Court schedule the Release Hearing at least five (5) working days away to allow for proper victim notification. The primary objective of a bond is to assure that the defendant will appear for future hearings.

Victims have the right to be notified of any release hearings and to make a statement to the Court regarding reduction or modification to the current release conditions. Crime victims will be notified of these hearings typically by mail; however, last minute hearings do get set by the Court. If there is not enough time to notify you by mail regarding a specific hearing, a Victim Advocate will attempt to contact you. The Advocate will go over with you what your rights are regarding the Release Hearing and ask whether or not you would like them to attend the hearing with you. If, for some reason, you either do not wish to attend, or are unable to attend, you may fax a statement to your Advocate. Your statement will then be hand-delivered to the Court for all concerned parties to hear your concerns/wishes. Your statement should include, but not be limited to, any concerns that you have about your safety, should the judge decide to release the defendant from custody.

The judge, when setting bail, can also place any reasonable conditions on the defendant's release to insure you are not harassed. It is important that you understand that a "no contact" order may be requested. This "no contact" order may include instructing the defendant to have NO CONTACT with you in person, on the phone, by written communication (including the use of electronic mail), and also through a third party contact, such as a friend or family member.

If, however, you are ever harassed, threatened, or bothered by the defendant, his or her friends or family during the case, contact the police first and then contact your Victim Advocate immediately.

PRE-TRIAL INTERVIEWS:

As a victim of a crime, you have the right to refuse to submit to a pre-trial interview, deposition or other discovery requests by the defendant's attorney or investigator. If the defense attorney wishes to interview you, he or she must make his/her request through the Deputy County Attorney (prosecutor). Your assigned Victim Advocate will send you a form again advising of your rights regarding the Pre-Trial Interview. You will be requested to decide whether or not you want to agree to the interview, complete the form, and return it to the Victim Services Division. If you agree to an interview, your rights at the interview are to:

- * talk to the defense attorney (with or without your own lawyer, if you have one);
- * insist that a member of the County Attorney's Office be present before you will talk to the defense attorney;
- * be accompanied to the interview by a relative or support person;
- * terminate the interview at any time; and
- * place reasonable conditions on the interview (date, time, duration and location).

PRE-TRIAL CONFERENCE:

There are several different things that may take place at a Pre-Trial Conference hearing. For example, a Motion to Continue the Pre-Trial Conference may be filed; and the Court may decide to set the Pre-Trial Conference for a later date. A defendant who has been offered a plea agreement may enter into a change of plea at the Pre-Trial Conference, or may advise the Court that the defense and prosecution have reached a plea agreement and request that the Court schedule a Change of Plea Hearing at a later date and time. However, should the state and defense be unable to reach a plea negotiation, they then may request that the Court schedule a firm jury trial. Additionally, a defendant may also request to have the Court modify the defendant's release conditions. If this request is made, then the victim does have a right to address the Court regarding this issue. The Court may also hear and decide on other Pre-Trial matters or rule on pending motions.

PLEA AGREEMENTS and

YOUR RIGHT TO CONFER:

As a victim, you have a right to confer with the Deputy County Attorney prior to any offer being extended to the defendant. Prior to any "firm trial setting," the Deputy County Attorney may contact you either by letter, telephone, or mail to advise you what plea agreement may be offered to the defendant. Plea Agreements provide the State, as well as the victim, with a guaranteed conviction. Plea Agreements do require that the defendant enter a plea of guilty or "no contest" to a crime(s) without having to go through the process of a Jury Trial. A Plea Agreement also limits the defendant's ability to file an appeal. However, in order to get a guaranteed conviction, lessen the appeal avenues, and get the case over in a much shorter length of time, this usually requires that the State agree to a reduction in charges, commitment not to pursue any other charges against the defendant, and/or a guarantee as to a lesser sentence. The Plea Agreement provides that the defendant will plead guilty or "no contest" to a crime or crimes without trial. It is important to note that a victim's right to confer with the Deputy County Attorney about their case does not, in any way, afford the victim of a crime the right or the power to direct the prosecution of a case. Based on ethical and legal reasons, ultimate control over the prosecution of criminal cases lies exclusively with the County Attorney.

CHANGE OF PLEA HEARING:

If an agreement is reached between the State and the defendant, you will be notified as to the date and time of the Change of Plea Hearing. You also have the right to be present at the Hearing and to make a statement directly to the Judge expressing your opinion about the Plea Agreement. The Judge may consider your opinion when deciding whether or not to accept the Plea Agreement. If the Plea Agreement is accepted, the Judge will enter a finding of guilty against the defendant and probably schedule a sentencing date approximately four (4) weeks from the date of the Change of Plea Hearing.

DIVERSION AS AN OPTION:

The Deputy County Attorney may allow the defendant to enter into the Pinal County Attorney Adult Diversion Program. This program is available only to non-violent offenders who usually have not been convicted of prior felony crimes. Under this Program, the defendant will be required to sign a contract, whereby he admits committing the crime and agrees to abide by extensive conditions for a period of time and agrees to pay back restitution to the victim. These programs typically begin prior to the occurrence of many of the formal legal proceedings. Therefore, the benefit to the State and to you, as the victim, is that there will not be a drawn-out legal process for the prosecution of the case. Prior to the placement of a defendant into the Diversion Program, this Office will contact you to discuss the placement of the defendant into this Program. Once the defendant is accepted into the Diversion Program, the Deputy County Attorney files a motion with the Court to suspend the proceedings. The Court then typically grants the motion, and the case is set for a review hearing. At that time, the Court will ask whether or not the defendant is participating in the Program and then schedule a review date.

If the defendant successfully completes the Program, nothing further will be pursued concerning that crime. However, should the defendant fail to meet the conditions of the Diversion Program, then the defendant will be removed from the Program. The Deputy County Attorney will then file with the Court a Notice to Resume Prosecution, and the case will then be set for a Pre-Trial Conference Hearing.

At the time the Deputy County Attorney determines the defendant is eligible to enter into the Diversion Program, you will be contacted by the Diversion Office of the Adult Diversion Program and will be advised as to the Program in its entirety. You will be asked your thoughts on the placement.

COURT PROCEEDINGS:

As a victim, you are granted specific rights during all court proceedings. You have the right to:

- * be present at any court proceeding that the defendant has a right to be present at;
- * to be accompanied to any judicial proceeding by a support person, unless that person is a witness in the case;
- * to make a statement to the court at any proceeding in which the court considers the release of the defendant, a change of a plea, or the sentencing;
- * to have the court provide appropriate safeguards to minimize any contact that might occur between the defendant, you, your family and friends;
- * not to testify regarding your address, telephone numbers, place of employment or other location information unless you consent or the court orders disclosure on finding that a compelling need for the information exists;
- * to ask the prosecutor to have the court reconsider the defendant's release from pre-trial custody. If the prosecutor decides not to do this, your Victim Advocate will inform you of that decision and of your rights to petition the court to have the defendant's release revoked based upon your notarized statement that harassment, threats, physical violence or intimidation against you or your immediate family has occurred by the defendant or on behalf of the defendant; and
- * to have the court, prosecutor and law enforcement officials take appropriate action to ensure a speedy trial.

By law, if your employer is in Arizona and has 50 or more employees, you have the right to leave work to attend court proceedings in your case; and your employer may not take negative actions against you, such as dismissal or discrimination, due to your leave. An employer may, however, limit the right to leave, if it would create an "undue hardship."

Upon your request, your Victim Advocate can assist you in exercising your rights at any judicial proceeding. Furthermore, you may exercise your right to be heard in the form of an oral statement, a written statement, audio tape, or a video-taped statement.

Last, you do not need to attend any court proceedings unless you receive a subpoena, but your attendance may be requested by the prosecutor or your Victim Advocate.

TRIAL:

If a Plea Agreement is not reached, the case may go to trial; although, only a small percentage of cases actually take this next step. At trial, the guilt or innocence of the defendant will be decided by a jury or a judge. Prosecution witnesses and defense witnesses will be subpoenaed (summoned) in advance to testify before a judge, or a judge and jury. Once the jury is selected and sworn, the prosecution and the defense make opening statements to the jury to explain the case.

The Deputy County Attorney assigned to prosecute the case will then begin by presenting the case against the defendant. This is commonly referred to as the "State's case in chief." The State must prove "beyond a reasonable doubt" that the defendant committed the crime(s) charged. The defense attorney will then have an opportunity to present its case.

Most evidence will be in the form of testimony from witnesses. Witnesses will be called to testify under oath and may be cross-examined by the defense attorney. Witnesses are excluded from the courtroom until they are testifying. However, as the victim, you have the right to be present throughout the trial, whether or not you testify.

At the end of the trial, attorneys for the prosecution and defense make final arguments to the judge or jury. The judge will then instruct the jury on the law governing the case and their duty as jurors.

If the evidence convinces the judge or a unanimous jury that, beyond a reasonable doubt, the defendant committed the crime(s), then a guilty verdict is returned; and the case is set for sentencing.

If the jury or judge is not convinced, beyond a reasonable doubt, that the defendant committed the crime, a verdict of "not guilty" is returned; and the defendant is released. A jury that is unable to reach a verdict is declared "hung" by the judge. The State may then request the case be retried, and a new jury will be selected.

SENTENCING:

If the defendant is convicted or pleads guilty as a result of a Plea Agreement, a Pre-Sentence Report is prepared by a probation officer. The Pre-Sentence Report includes information about the defendant, the victim, the crime and possibly past crimes, and a recommendation for a specific sentence. You have the right to provide the probation officer with information regarding the effect the case has had on your life. The information in the report will be presented to the judge, prosecutor and defense attorney.

At this stage, you have the right:

- * to read the pre-sentence report when it is available for the defendant;
- * to be present and give evidence or information to the judge at the time of sentencing; and
- * to request the court order the defendant to pay restitution for your economic losses that are a direct result of the crime.

The defendant may then be sentenced to jail, prison, or given probation and required to meet conditions set by the judge. If the defendant is placed on probation and fails to meet the conditions set by the judge, then their probation may be revoked; and the sentence modified by the court.

AFTER SENTENCING:

After the defendant has been sentenced, if you have requested notification, you will be notified of the sentence imposed by the court. You will receive a "Post-Conviction Request Form." You must complete this form to request your rights to post-conviction notification, which includes information concerning appeals, probation revocation or modification, parole hearings, the release, escape, or the death of the defendant.

DOMESTIC VIOLENCE:

The Pinal County Attorney's Office is aggressive in the prosecution of cases involving domestic violence. In such cases, charges will not be dropped at the request of the victim. However, such a request will be one factor to consider in determining whether or not to proceed with prosecution of the suspect. For more information and details regarding the Domestic Violence Program, please contact your assigned Victim Advocate or the Victim Services Division at 1-800-208-6897, Ext. 6813 or (520) 866-6813.

ARIZONA BUSINESS VICTIMS' RIGHTS:

Under the Arizona Constitution, a corporation, partnership, association or other legal entity which is a victim of a crime is granted different rights because of its status as an artificial entity.

Businesses that are victims of a crime have the following rights:

- * to have a lawful representative appear and be heard at any proceeding relating to restitution or sentencing of the defendant;
- * to submit to the Court a written statement containing information and opinions on restitution and sentencing; and
- * to request notification of the date and time of any proceeding relating to restitution or sentencing of the defendant.

However, other rights granted to individual victims by the Arizona Constitution do not apply to business victims. For example, a business victim's lawful representative cannot refuse a pre-trial interview and may not be permitted to be present whenever the defendant is allowed to be present.

MISDEMEANOR CASES:

Generally, if a crime is punishable with a term in jail of less than one year, it is designated as a misdemeanor. The majority of all misdemeanor crimes are adjudicated in either a Justice Court or a City court.

In Pinal County, there are eight Justice Courts. This Office only prosecutes misdemeanor crimes in the Justice Court. The procedures are a little different for misdemeanor crimes in Justice Court than for felony crimes in Superior Court.

CHARGING OF A MISDEMEANOR CRIME:

The defendant is usually charged by the arresting officer by the issuance of a citation complaint in the Justice Court. Sometimes, the Deputy County Attorney will issue a criminal complaint against the defendant in the Justice Court after a review of the police investigation during the Pre-Trial Investigation.

INITIAL APPEARANCE/ARRAIGNMENT:

This is a similar proceeding as to what happens in the Superior Court on felony charges. It is the first hearing in the Justice Court on the criminal charge. The defendant will enter a plea to the charge. The defendant can enter a guilty plea to the charge at this hearing. The Court may sentence the defendant during this hearing or it may set the defendant for a Sentence Hearing. If the defendant enters a not guilty plea to the charge, then the Justice of the Peace (Judge) will set a Pre-Trial Hearing at a later date, usually a month later.

The victim has the right to attend the Arraignment hearing.

PRE-TRIAL HEARING:

- * This is a hearing where the defendant will meet with the Deputy County Attorney and receive discovery of the case. If the defendant is represented by counsel, then his counsel will meet with the Deputy County Attorney. If the defendant does not have counsel, the Deputy County Attorney will meet with the defendant personally.

The Deputy County Attorney may offer a plea agreement to resolve the charge or, after reviewing the discovery, the defendant may change his plea to guilty on the charge. The Judge may sentence the defendant on case depending on if the defendant has plead guilty to the charge or plead guilty under the negotiated terms of a plea agreement. If the defendant does not resolve the case at this hearing, then it is usually set for trial at a later date.

The victim has the right to attend this hearing and speak with the Deputy County Attorney about the case, including any proposed plea offer that may be made to the defendant. If the defendant is sentenced by the Judge, then the victim has the right to address the Judge about the terms and conditions of the sentence.

TRIAL:

This proceeding is a trial on the charge brought against the defendant. The Deputy County Attorney will call witnesses and may present other evidence to prove to the Judge that the defendant is guilty of the crime beyond a reasonable doubt. The defendant has the right to cross-examine the witnesses and call his own witnesses in defense to the charge. At the conclusion of the trial, the Judge will decide if the defendant is guilty of the charge. Depending on what type of crime the defendant is charged with, he may be entitled to a jury trial. Not all misdemeanor defendants are entitled to a jury trial.

The Judge may sentence the defendant after the conclusion of the trial or he may set a sentence hearing at a later time.

The victim has the right to attend the trial and may be called as a witness in the State's case. The victim, if called as a witness, is subject to cross-examination by the defendant or his counsel. If the defendant is later sentenced after the trial, the victim has the right to address the Judge and make a statement concerning the defendant's sentence.

SENTENCE HEARING:

This is the hearing where the Judge will enter an order against the defendant. The sentence will punish the defendant for the crime that he committed and the Judge will consider ordering the defendant to pay a fine and a term of jail. Other sentence considerations may include the imposition of community service and restitution payment to the victim.

The victim has the right to attend this hearing and address the Court regarding the terms and conditions of the defendant's sentence.

APPEAL:

If the defendant is convicted of a crime, he has the right to appeal the conviction to the Superior Court for review. This appeal is similar to the appeal right in felony cases.

THE JUVENILE JUSTICE SYSTEM:

The juvenile justice system follows a different procedure and uses different terminology from the adult criminal justice system. However, if you are the victim of an offense committed by a juvenile, you are still afforded the same rights as a victim of a crime committed by an adult. For all victim information, please refer to the preceding adult section. The following section will briefly outline the Pinal County Juvenile Justice System. The Deputy County Attorney does not represent you, as the victim, in the Juvenile Justice proceedings.

PRE-TRIAL INVESTIGATION

AND PETITION:

As in the adult system, once a crime is reported, the police agency will investigate it to determine if there is sufficient evidence to proceed. If there is sufficient evidence, a delinquency complaint/referral (citation), alleging the commission of a delinquent act, is submitted to the Pinal County Juvenile Probation Department.

The Juvenile Probation Officer will submit a request for the filing of a petition (charges) with the County Attorney's Office if the juvenile committed a delinquent act. A delinquent act is an act that would be a crime if committed by an adult. The Deputy County Attorney will review the case to determine if there is sufficient information to indicate the juvenile offender committed the delinquent act, and there is a reasonable likelihood the juvenile will be found delinquent (guilty) at an adjudication hearing (trial).

The Deputy County Attorney may also determine there is insufficient evidence to proceed and decline the delinquency complaint/referral. Additionally, the Deputy County Attorney may determine the juvenile is eligible for a diversion program for juveniles. If this is the case, the juvenile will be referred back to Juvenile Probation for placement on such a program.

If a petition is filed, it is presented to the Judge. The Judge may order the juvenile be taken into custody or issue a citation requiring the juvenile to appear in court on a specific date.

DETENTION and

ADVISORY HEARINGS:

When a juvenile is arrested and taken into custody, he/she is taken to the Detention Center (jail for juveniles). Within twenty-four (24) hours, the juvenile will be brought before the Court for a Detention Hearing to determine whether or not the juvenile should remain in detention. Juveniles may be released at this hearing to their parents or guardian with a promise to return for later court proceedings.

If the juvenile is not in custody, the juvenile and his/her parents will be notified to appear before the court within thirty (30) days for an Advisory Hearing (arraignment). At the Advisory Hearing, the juvenile is informed of the charges against him/her and his/her rights. The juvenile will be asked to enter a plea. Usually, at this time, the juvenile will enter a plea of "not guilty;" and a Non-Firm Adjudication/Pre-Trial Conference Hearing will be set.

NON-FIRM ADJUDICATION/PRE-TRIAL CONFERENCE HEARINGS & ACTIONS:

During this stage in the juvenile justice system, the County Attorney's Office will review the juvenile's history and the current crime(s) to determine if the juvenile may or must be transferred to adult court for prosecution.

If the juvenile is at least fifteen (15) years old and is a chronic felony offender [has at least two (2) prior felony convictions] or has committed certain serious offenses, he or she is automatically transferred to adult court for prosecution. When automatic transfer occurs, the juvenile is treated as an adult; and all further court proceedings will be pursuant to the adult criminal justice system. The Deputy County Attorney may also decide to file a motion with the Court to transfer the juvenile to adult court. If such a motion to transfer is filed, a transfer hearing may be held thirty (30) days after its filing. If the Court denies or dismisses this motion, an adjudication hearing for the juvenile may occur within thirty (30) days. If the Court grants the motion, the juvenile will be transferred to adult court for prosecution.

NEGOTIATED SETTLEMENTS

(PLEA AGREEMENTS):

Prior to the Non-Firm Adjudication/Pre-Trial Conference Hearing, the Deputy County Attorney may discuss with the defense attorney the settlement of the case by negotiated settlement. A Negotiated Settlement is commonly referred to as a Plea Agreement. The Negotiated Settlement provides that the juvenile will plead guilty or "no contest" to a crime or crimes without trial. What the State and you, the victim, gain is a certain conviction and a savings in time and effort. However, the State, in turn, may agree to a reduction in charges, a commitment not to pursue other charges, or a guarantee as to a maximum-recommended sentence.

Even though the ultimate control over the prosecution of the cases is exclusively with the County Attorney, you have the right to be heard on these issues. The Deputy County Attorney would like to confer with you about the negotiated settlement before it is entered in court.

If a Negotiated Settlement is reached, the attorneys and the juvenile appear before the Judge for a Negotiated Settlement Hearing. The admission of guilt normally occurs at the Non-Firm Adjudication/Pre-Trial Conference Hearing.

As a victim, you have the right to be present and to make a statement expressing your opinion about the Negotiated Settlement. The Judge may consider your opinion when deciding whether or not to accept the Negotiated Settlement. Once accepted, the Judge will enter a finding of delinquency against the juvenile.

ADJUDICATION & DISPOSITION:

If a negotiated settlement is not reached, the case will proceed to an Adjudication Hearing. This hearing is the same as a trial in adult court with the exception that the evidence will be heard only by the Judge. A jury is never used in the juvenile justice system. (Please refer to the preceding section entitled "Trial.") If the juvenile pleads guilty to the delinquent act, or if the juvenile is adjudicated delinquent (found guilty), the Judge will set a date for the Disposition Hearing. Prior to the Disposition Hearing, the Pinal County Juvenile Probation

Department will prepare a Pre-Disposition Report on the juvenile. This report includes information about the juvenile, the victim, the crime and possibly past crimes, and a recommendation for a specific disposition (sentence).

At the Disposition Hearing, the juvenile may be ordered to serve time in the Arizona Department of Juvenile Corrections, the Juvenile Detention Center, or given probation and required to meet conditions set by the Judge. If the juvenile is placed on probation and fails to meet the conditions set by the Judge, then the probation may be revoked; and the sentence modified by the court.

However, a juvenile's placement on probation and commitment to the Arizona Department of Juvenile Corrections terminates when the juvenile reaches the age of eighteen (18).

As this is a very simplified explanation of the juvenile and adult criminal justice systems, it may not explain how a particular case is handled. Further information may be obtained by calling the Pinal County Attorney's Office, Victim Services Division at 1-800-208-6897, Ext. 6813 or (520) 866-6813.

RESTITUTION:

After a criminal defendant or juvenile offender enters a diversion program, is convicted or pleads guilty, he or she may be directed to pay restitution as a condition of any sentence imposed. If you have suffered a direct loss as a result of the crime, please retain any receipts or other documentation regarding your expenses and/or losses. All documentation will need to be submitted for determining a restitution award. Restitution does not include pain and suffering.

After the Court sets the restitution amount, all payments made by the defendant or the juvenile will be made directly to the Clerk of the Superior Court's Office. The Clerk of the Court will forward all restitution payments to you. However, any restitution award does not limit your ability to recover damages from the defendant/juvenile in a civil lawsuit. You will need to ask your own attorney about pursuing a civil lawsuit.

VICTIM COMPENSATION:

If you have suffered a direct loss due to the criminal conduct of the defendant/juvenile, you may be entitled to receive compensation from the Pinal County Attorney's Crime Victim Compensation Program.

To be eligible to apply for compensation from this fund, you must be the victim, or a derivative victim, of a criminally injurious crime occurring in Pinal County and meet the following requirements:

- * have reported the crime to a police agency within 72 hours;
- * the application must be submitted within two (2) years of the discovery of the crime;
- * willingly cooperate with appropriate law enforcement agencies;

- * suffer physical injury or extreme mental distress as a direct result of the crime; and
- * incur economic loss as a direct result of the crime.

If you meet these requirements, you may be compensated for medical expenses, mental health counseling, loss wages, and/or funeral expenses.

All applications are reviewed and awards authorized by the Pinal County Attorney's Crime Victim Compensation Board. This Board consists of at least three (3) members who meet once a month. The Board renders a decision in writing to the applicant with five (5) days of their decision.

For further information or to obtain an application, please contact your assigned Victim Advocate at the Pinal County Attorney's Victim Services Division. Your Advocate will be able to assist you with the completion of the application and answer any questions you may have been regarding this process.

GLOSSARY:

ACCUSED -- a person or entity accused of committing a crime.

ACQUITTED -- the term used for when a jury or judge returns a verdict of not guilty, as the State failed to prove the defendant committed the crime beyond a reasonable doubt.

ADJUDICATION -- a juvenile justice system proceeding in which the court may hear evidence and determine whether or not the juvenile committed the delinquent act he or she is charged with; in the adult court system, this would be called a trial.

ADVISORY HEARING -- a juvenile justice proceeding whereby a juvenile, who is not in custody, will appear with his/her parents, guardian, or custodians before the court and be informed of the charges against him/her; in adult court, this would be the Arraignment.

ADMISSION -- a statement made by the defendant whereby he or she admits committing the crime(s) charged.

APPEAL -- the process by which a defendant requests that his/her conviction be reviewed by a higher court.

ARIZONA DEPT. OF JUVENILE CORRECTIONS -- in the juvenile justice system, this is the secured facility to which a juvenile delinquent may be sentenced; in the adult court system, the defendant would be sent to the Arizona Department of Corrections.

ARRAIGNMENT -- the first court appearance in Superior Court at which the defendant is informed of the charges, his rights and enters a plea.

ARREST -- when a police agency takes a person accused of committing a crime into custody.

BOND/BAIL -- An amount set by the Judge believed to be sufficient to assure the defendant's presence at later hearings; usually the defendant gives (posts) a portion of the bond in order to be released and may lose the total amount if he or she fails to appear for court.

CHARGING -- the initial action taken by the prosecutor accusing a person of committing specific crime(s).

CROSS-EXAMINATION -- when the witness is questioned by the attorney representing the opposing party.

DEFENDANT -- a person who is charged with committing a crime.

DEFENSE ATTORNEY -- an attorney representing the defendant's interests in criminal proceedings.

DELINQUENCY -- the commission of a criminal act by a juvenile. A juvenile is "delinquent" when he or she has been found responsible for committing the act.

DEPOSITION -- an interview of a witness set by court order, taken under oath and recorded by a court reporter.

DEPUTY COUNTY ATTORNEY (prosecutor) -- an attorney employed by the Pinal County Attorney's Office who is responsible for prosecuting those accused of committing crimes in Pinal County.

DERIVATIVE VICTIM -- A party who represents the victim or was indirectly injured by the crime.

DETENTION -- temporary confinement of a juvenile by a police agency pursuant to law.

DETENTION HEARING -- in the juvenile justice system, a proceeding in which the placement/custody of the juvenile is determined pending a hearing or filing of a petition by the Deputy County Attorney.

DIRECT EXAMINATION -- questions asked by the attorney that called the witness to testify in court.

DISPOSITION -- in the juvenile justice system, this is when the court directs what will be done with the juvenile; in the adult justice system, this is the sentencing.

EVIDENCE -- proof, in the form of testimony, written documents, exhibits, etc., to establish the guilt or innocence of the defendant.

FELONY -- a criminal act for which a term of imprisonment in the State Department of Corrections is authorized by law.

GRAND JURY -- a group of nine (9) to sixteen (16) citizens of Pinal County who hear evidence presented by the prosecutor and determine if there is probable cause to prosecute the defendant.

GUILTY -- a plea the defendant enters in court admitting that he or she committed the crime, or a verdict returned by the court or jury finding the prosecution proved beyond a reasonable doubt that the defendant committed the crime(s) charged.

INITIAL APPEARANCE -- a court hearing within twenty-four (24) hours of a person's arrest in which the court determines whether or not the person is to be released or sets a bond; the court will also set the time for a preliminary hearing or arraignment.

INVESTIGATION -- the process whereby a police agency or the prosecutor will collect evidence to determine if a crime was committed.

✓ *JUDGE* -- a person elected or appointed to preside over matters in court.

JUSTICE OF THE PEACE COURT (JUSTICE COURT) -- a court in Pinal County which hears misdemeanor cases occurring within this County, preliminary hearings for felony cases and civil cases in which the dollar amount in dispute is less than \$10,000.00.

JUVENILE -- a person under the age of eighteen (18) who is charged with committing a delinquent act.

MISDEMEANOR -- a criminal charge which is punishable by a fine, probation or incarceration in the County Jail for a maximum of six (6) months.

MISTRIAL -- a trial that ends due to a violation of a criminal rule of procedure, or if the jury cannot reach a unanimous verdict.

MOTION -- a written or oral request by the prosecutor or defense attorney seeking a specific determination by the judge.

NOT GUILTY PLEA -- a statement that the defendant enters in court denying committing the crime(s).

PETITION -- in the juvenile justice system, this is a document filed in court charging the juvenile with committing a criminal act.

PLEA AGREEMENT -- agreement between the prosecutor and the defendant whereby the defendant agrees to plead guilty to certain charges in return for dismissal of others, or for a reduced sentence.

PRE-ADJUDICATION -- a juvenile justice proceeding occurring prior to the Adjudication Hearing in which the juvenile may accept a plea or have the court set the matter for adjudication.

PRE-DISPOSITION REPORT -- in the juvenile justice system, this report is prepared by a probation officer for the judge to consider at the disposition hearing; it will include a review of the juvenile's history, the crime, any victim input, and a recommendation as to disposition.

PRELIMINARY HEARING -- in Justice Court, this proceeding is held to determine if there is probable cause to believe the defendant committed the crime(s) charged.

PRE-SENTENCE REPORT -- a report prepared by a probation officer for the judge to consider at the time of sentencing; it will include a review of the defendant's history, the crime, any victim input, and a recommendation as to sentencing.

PRE-TRIAL CONFERENCES (PRE-TRIAL HEARINGS) -- in Superior Court, a proceeding before trial in which motions are heard by the judge and the status of the case is discussed.

PROBATION -- a sentence which permits the defendant to remain in the community but under the supervision of a probation officer and subject to the conditions imposed by the court.

PROBABLE CAUSE -- a determination that there is sufficient evidence the defendant committed the crime.

RESTITUTION -- an amount of money the judge orders the defendant to pay to the victim for losses due to the criminal conduct.

REQUEST WAIVER FORM -- form completed by law enforcement that allows the victim of a crime to invoke or waive their rights.

SENTENCE -- the determination by the judge concerning the punishment the defendant will receive.

SUBPOENA -- a legal document directing the person named to appear at a stated day, time and place to give testimony in a case.

SUMMONS -- a legal order requiring the defendant to appear before the court for an initial appearance or arraignment.

SUPERIOR COURT -- a trial court which hears all felony cases, juvenile cases, civil cases in which over \$10,000.00 is in dispute, and appeals from Municipal or Justice Court.

TESTIMONY -- a statement made under oath.

TRANSFER -- the sending of a case from the juvenile court to adult court for prosecution.

VERDICT -- at the end of trial, a unanimous jury or a judge will give a decision that the defendant is guilty or not guilty of committing the crime(s).

VICTIM -- by law, a person or business is a victim if the act committed by a juvenile or adult is a felony offense, a misdemeanor offense involving physical injury, the threat of physical injury or a sexual offense.

VICTIM ADVOCATE -- (for the purposes of this booklet, an advocate as employed by the Pinal County Attorney's Office) -- works as a liaison between the prosecutor and the victim; responsible for explaining the criminal justice and juvenile justice system to crime victims; and provides crisis counseling, referrals, court accompaniment and other supportive assistance to crime victims.

WARRANT -- a legal order to a police agency to arrest the person named in the order.

WITNESS -- a person who has seen or knows something about a criminal act.

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