

JUVENILE VICTIM SERVICES

- AUTHORITY:** Victim's Bill of Rights Act 2008/Marsy's Law (Proposition 9) California Constitution, Article 1, Section 28
Welfare and Institutions Code (WIC) Sections 202 (d), 656.2, 676.5, 702, 706, 707, and 742
Government Code (GC) Section 6254(f)
Juvenile Court Administrative Order No. 12/003-903-Exchange of Information, dated March 29, 2012
- RESCINDS:** Procedure Manual Item 1-1-108, dated 09/08/16
- FORMS:**
- | | |
|--|---------------------|
| Integrated Case Management System Chronological History | (Automated) |
| Victim Rights (Marsy's Law) Initial Notification Letter | (F057-10049) |
| Victim Request to Assert Rights Form | (F057-10050) |
| Victim Notices | (F057-10051) |
| Marsy's Law | (Attachment) |
- PURPOSE:** To outline victim services provided by the Probation Department.

I. GENERAL INFORMATION

- A. Per the California Constitution Article 1 Declaration of Rights Section 28(e), a "victim" is a person who suffers direct or threatened physical, psychological, or financial harm as a result of the commission or attempted commission of a crime or delinquent act. The term "victim" also includes the person's spouse, parents, children, siblings, or guardian, and includes a lawful representative of a crime victim who is deceased, a minor, or physically or psychologically incapacitated.
- B. On November 4, 2008, the voters of the State of California approved Proposition 9, the Victims' Bill of Rights Act of 2008: Marsy's Law. This measure amended the California Constitution to provide additional rights to victims. Under Marsy's Law, the California Constitution Article 1, Section 28, Section (b) provides victims with specific enumerated rights including the following:
1. The right 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. The right to reasonable notice of all public proceedings, including delinquency proceedings, upon request, and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.
 3. The right to be heard, at any proceedings, including any delinquency proceedings, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceedings in which a right of the victim is at issue.

4. To provide information to a probation department official conducting a pre-sentencing 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.
 5. 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.
 6. To seek and secure restitution for any losses caused by the crime.
- C. The Welfare and Institutions Code (WIC) mandates the probation officer to perform several victim related services:
1. Pursuant to WIC 202 (d), "Juvenile courts and other public agencies charged with enforcing, interpreting, and administering the juvenile court law shall consider the safety and protection of the public, the importance of redressing injuries to victims, and the best interests of the minor in all deliberations pursuant to this chapter. Participants in the juvenile justice system shall hold themselves accountable for its results."
 2. Pursuant to WIC 656.2, the probation officer shall do the following:
 - a. Inform the victim of the right to submit a victim impact statement.
 - b. Inform the victim of the time and place of judicial hearings.
 - c. Provide the victim with information pertaining to an action for civil damages.
 3. Pursuant to WIC 676.5, the probation officer shall notify the victim in person or by registered mail, return receipt requested of their right to be present concerning petitions filed pursuant to WIC 602 with a notice explaining all other rights and services available.
 4. Pursuant to WIC 742, the probation office shall, upon the request of an alleged victim of a crime, inform the victim by letter of the final disposition (dismissal, acquittal, or findings) of the case within █ days. If the court orders that restitution shall be made to the victim of a crime, the amount, terms, and conditions thereof shall be included in the information provided pursuant to this section.

II. PROCEDURE

The victim is entitled to specific information related to the case provided they meet criteria outlined below.

A. Criteria for Release of Information to the Victim:

1. A petition has been filed and the person requesting the information is named as a victim in the petition, police report, or has been appointed the victim's designee.
2. A petition has been adjudicated and the person is named as the victim or the victim's designee.
3. Refer victims to the District Attorney for any requested information concerning the status of non-sustained petitions/counts or if the victim has been named in the police report, but not named in the petition.
4. If the victim elects to receive notifications, efforts must be made to have the victim complete a **Victim Request to Assert Rights** Form (F057-10050) and that form is to be placed in the probation file. There may be occasions in which the victim is unable to sign the form. Those situations shall be documented in the Integrated Case Management System (ICMS).
5. If a victim requests information over the telephone, specific Marsy's Law information may be released to them provided the Deputy Probation Officer (DPO) has confirmed their identity. Typically, victim identification verification is obtained after the victim receives initial notification, contacts the assigned DPO, and that DPO subsequently contacts them at the number provided.
6. The victim may only receive information on the case for which they are listed as the victim. They are not entitled to other case information on petitions or cases where they are not listed as the victim.
7. Only the following individuals are entitled to Marsy's Law information: a victim, including the victim's spouse, parents, children, siblings, or guardian; the retained attorney of the victim; a lawful representative of the victim; or the prosecuting attorney upon request of the victim.
8. A victim is permitted to change their notification elections.

B. Types of Information that may be Released to the Victim or Victim Designee

Note: The following types of information may be released to an identified victim as described in section II. A. All victim contacts must be documented in ICMS as a victim transaction.

1. Case disposition (meaning acquittal, dismissal, or findings).
2. Scheduled release date of youth.
3. Actual release date of youth including releases on the Home Supervision Program (HSP), and Accountability and Commitment Program (ACP). Notifications shall be made within █ business days of the event occurring.
4. Escape of youth from a county facility. Notifications shall be made within █ business days of the event occurring.

5. Youth's return to custody on the case in which the victim was named. Note: The victim is only entitled to custodial information on cases in which they were named as the victim. Notification shall be made within █ business days of the event occurring.
6. A victim statement will be included in all Disposition, Pre-Plea, or Placement Suitability Reports. In the preparation of the report, the DPO shall advise the victim of the time and place of the Dispositional Hearing and any other judicial proceeding concerning the case.
7. Court dates including all hearings that may directly affect the victim. Contact shall be made in a reasonable time frame preceding the event but no shorter than █ days before the court date. The DPO shall provide the case number, the youth's last name, and first initial. The DPO shall inform the victim they must check-in with Victim Witness Assistance Program upon their arrival at court. The types of hearings include, but are not limited to:
 - a. Detention Hearings
 - b. Pretrial Hearings
 - c. Dispositional Hearings
 - d. Probation Violation Hearings
 - e. Case Review Hearings (when terminal disposition is possible)
 - f. Wardship Status Review Hearings
 - g. Sealing of Record Hearings
 - h. Contested Restitution Hearings
8. If a victim requests a pre-sentence report, the DPO will contact the Custodian of Records [Refer to Procedure Manual Item (PMI 1-1-101 Access to and Release of Criminal Offender Record Information (CORI)]
9. All victim services documents must include an admonition regarding the confidential nature of Juvenile Court proceedings, as follows:

"Notice: This document contains juvenile record information. Further release by you of this information may be accomplished only in accordance with applicable statute, court order, or other lawful process."

C. Types of Information that may not be Released to the Victim

1. Information that may not be released to the victim, unless authorized by the court, includes case dynamics and personal information of the youth, court orders specific to the case (with the exception of protective/restitution orders), prior records, etc.
2. If the victim requests information over the telephone, has not signed a **Victim Request to Assert Rights** Form (F057-10050), and their identity or

relationship to the victim cannot be confirmed, provide only general information regarding the court process and processing of their inquiries and the Probation Department's time frame response.

3. The victim can also be referred to the Victim/Witness Assistance Program at the Lamoreaux Justice Center (714-935-7074) for additional assistance.
4. Probation shall not release any case file document or report prepared by an outside agency. Pursuant to Government Code 6254(f), the local law enforcement agency that investigated the crime is responsible for releasing the information to the victim.

D. Release of Case-Related Restitution Information to Victims

Restitution information is normally included with dispositional information. On occasion, however, victims seek only restitution information, or information related to restitution, for purposes of civil reimbursement.

Criteria for release of information are as follows:

1. A petition has been filed naming the victim and a disposition made ordering restitution.
2. The person/agency requesting the information is named as a victim in the police report or has been named as the victim's designee.

E. Specific Roles and Responsibilities

1. Juvenile Court Contested (DPO)
 - a. The Juvenile Court Contested DPO is responsible for making initial contact with the victim on all cases wherein the youth is not in custody. The Juvenile Court Contested DPO will review every filed WIC 602 petition, wherein the youth is not in custody, to determine if there is a victim. If there is not a victim, the Juvenile Court Contested DPO will document this in ICMS as a victim transaction.
 - b. The Juvenile Court Contested DPO shall document all attempted or actual contact, by telephone, in person, or by mail, in ICMS as a victim transaction.
 - c. The Juvenile Court Contested DPO shall generate a Marsy's Law Initial Notification form for each victim on the petition and print two copies. The first copy will be placed in the file. The second copy will be given to the Contested Clerk. The letter must include:
 - (1) Probation-related information including the purpose of the letter
 - (2) Marsy's Law (Attachment)
 - (3) Services/resources available to victims within the County of Orange

Note: These items are automatically printed with the initial victim notification.

- d. The Contested Clerk shall mail the second copy of the Marsy's Law Initial Notification Letter via certified mail, return receipt requested. On the return receipt, the Contested Clerk will write "Contested Officer/JJC 5th Floor" or the name of the supervision DPO. This will ensure the return receipts are routed to the appropriate officer to be placed in the file.
- e. Certified letter receipts shall be placed in the file. If the file is not available, the receipts shall be forwarded to the assigned supervision DPO.
- f. If requested, the victim is entitled to receive the final disposition of the case within [REDACTED] days. If the case resulted in anything other than wardship and formal supervision, the Juvenile Court Contested DPO shall mail out a letter advising the victim of final disposition. Cases which resulted in a declaration of wardship, or continuation of wardship, will be routed back to the supervision DPO who shall notify the victim of the final disposition.

2. Custody Intake DPO

- a. The Custody Intake DPOs are responsible for making initial contact with the victim(s) on all cases wherein the youth is booked into Juvenile Hall (JH) on a new law violation.
- b. The Custody Intake DPO shall attempt to make contact by telephone with every identified victim of the filed petition.
 - (1) The Custody Intake DPO shall inform the victim of their Marsy's Law rights including the right to attend Juvenile Court proceedings.
 - (2) The Custody Intake DPO shall inform the victim that a letter containing their rights and available services will be mailed to them.
 - (3) The DPO shall verify they have the correct mailing address and telephone number of the victim and document this information in ICMS.
 - (4) If the victim is under the age of 18, the DPO shall attempt to obtain the name and contact information for the parent or legal guardian. All subsequent correspondence will be addressed to the parent or legal guardian.
 - (5) If the case involves a sex offense, correspondence will be addressed to Jane Doe, John Doe, or parent of Jane Doe or John Doe.

- c. The Custody Intake DPO will generate the Marsy's Law Initial Notification Letter. The letter must include:
- (1) Probation-related information including the purpose of the letter
 - (2) Marsy's Law (Attachment)
 - (3) Services/resources available to victims within the County of Orange

Note: These items are automatically printed with the initial victim notification.

- d. The Custody Intake DPO will mail the letter via certified mail, return receipt requested. On the return receipt, the DPO will write "Victim Service Coordinator **PAO**" or the name of the supervision DPO. This will ensure the return receipts are routed to the appropriate officer to be placed in the file.
- e. If the Custody Intake DPO speaks with the victim directly, they are to inquire if the victim is working with a victim advocate and/or the Victim Witness Assistance Program.
- f. If the victim has requested to attend court, the Custody Intake DPO is to provide the victim with the court date, time, and location, and will provide the case number, as well as the youth's last name and first name initial. The Custody Intake DPO is to inform the victim they must have this information in order to attend court. The Custody Intake DPO will direct the victim to check in with the Victim Witness Assistance Program at the Lamoreaux Justice Center upon their arrival.
- g. The Custody Intake DPO will then contact the Victim Witness Assistance Program (714-935-7074) and inform them that the victim intends to be present at the Juvenile Court Hearing. The Custody Intake DPO shall document this information in ICMS.
- h. The Custody Intake DPO shall document all attempted or actual contact, by telephone, in person, or by mail, in ICMS as a victim transaction. Further, the Custody Intake DPO will update the victim's contact information.

3. Institutional Staff

- a. If a victim has indicated they want to be notified of scheduled release date, furlough, release of, or the escape of the youth from custody, the Institutional Division Director or designee shall notify the victim. Notifications shall be made within [REDACTED] business days of the event occurring.

- b. The Institutional Division Director, or designee, is responsible for reviewing ICMS to determine if the victim(s) has indicated their desire to be notified of custodial status.
- c. The Institutional Division Director, or designee, shall confirm the victim is named on the petition for which the youth is in custody.
- d. If both (b) and (c) apply, the Institutional Division Director, or designee, shall attempt to notify the victim of the scheduled release date, furlough release of, or the escape of the youth from custody in a timely manner. Notifications shall be made within [REDACTED] business days of the event occurring.
- e. The Institutional Division Director, or designee, shall document the contact in ICMS as a victim transaction.

4. Juvenile Investigation DPO

- a. The Juvenile Investigation DPO shall attempt to obtain a written or oral statement offered by the victim and, if available, include the information in the court report under the "Victim's Statement" section of the report.
- b. The victim is to be notified of the time and place of the Disposition Hearing pursuant to WIC 702 and WIC 706; any fitness hearing to be conducted pursuant to WIC 707, and any other judicial proceeding concerning the case.
- c. If the victim has requested to attend a juvenile court hearing or any other judicial proceeding concerning the case, the Juvenile Investigation DPO will provide the victim with the court date, time, and location and will provide the case number, as well as the youth's last name and first name initial. The Juvenile Investigation DPO will inform the victim they must have this information in order to attend court. Additionally, they will direct the victim to check in with Victim Witness Assistance Program upon their arrival at court.
- d. The Juvenile Investigation DPO shall then contact the Victim Witness Assistance Program (714-935-7074) at the Lamoreaux Justice Center and inform them that the victim intends to be present at court.

5. Supervision DPO

- a. In all cases, the assigned DPO shall verify that victims have been identified as named on petitions and notified of their victim rights.
- b. If there is no record of a Marsy's Law Advisement Letter, the assigned DPO shall mail a Marsy's Law Advisement Letter to the victim's reported address via certified mail, return receipt requested. The letter must include:

- (1) Probation-related information including the purpose of the letter
- (2) Marsy's Law (Attachment)
- (3) Services/resources available to victims within the County of Orange

Note: These items are automatically printed with the initial victim notification.

- c. Upon receipt of a victim's request to assert any of their Marsy's Law rights, the DPO will enter the victim's choices into ICMS as a victim transaction.
 - d. The DPO shall confirm all victim information, including most current contact information, is entered into ICMS. Further, all attempted or actual contact, by telephone, in person, or by mail, is entered into ICMS as a victim transaction.
 - e. The DPO is responsible for Initial Marsy's Notifications for cases that have bypassed Custody Intake and the Contested function (e.g. petition was routed directly to assigned DPO and sent petition directly to district attorney for filing).
 - f. Typically, Custody Intake or Contested staff provide initial Marsy's Law notification with the exception of (d) above. The supervision DPO is responsible for all subsequent notifications, on all active cases, if the victim has exercised their Marsy's Law rights.
 - g. Inquiries on cases terminated by court order or warrant cases are referred to the Professional Standards Division (PSD) Custodian of Records or to the Victim Witness Assistance Program at the Lamoreaux Justice Center.
6. Supervising Probation Officer (SPO)
- a. The SPO shall ensure that all victims have been contacted and notified of their rights as mandated in this Procedure Manual Item (PMI).
 - b. The SPO shall ensure that all current victim information, including current contact information and victim right's elections, have been entered into ICMS as victim transactions.
 - c. The SPO shall ensure that minimum victim contact standards have been met.

7. Victims Services Coordinator

- a. The Victim Services Coordinator shall be responsible for handling incoming telephone calls, **via the Victim Services Public Line (714) 347-8000, email inquiries via VictimServices@prob.ocgov.com**, faxes, and written correspondence for general inquiries regarding victim notifications.
- b. The Victim Services Coordinator shall collaborate with external agencies (California Victim Compensation Program/Victim Witness Assistance Program, etc.) that provide direct services to victims in order to ensure continued compliance with the law and to ensure the victims are receiving their entitled rights and that Department standards are upheld.
- c. The Victim Services Coordinator shall conduct enhanced investigations to locate and make contact with any victim who has not been able to be contacted through standard means via telephone or postal mail.
- d. The Victim Services Coordinator shall conduct initial and routine training pertaining to the Victim portion of ICMS.

REFERENCES:

Procedures:	1-1-101	Access to and Release of Criminal Offender Record on Information (CORI)
	1-1-102	Use of Sex and Arson Registry and Megan's Law Information System for Community Notification
	1-1-107	Release of Sex Offender Information to The Public
	1-1-110	Release of Juvenile Record Information to Orange County School Districts, Police Agencies, and District Attorney
	1-1-116	Release of Juvenile Record Information Police Reports
	1-4-104	Threats: Staff Responsibilities Regarding Threats and Notice to Unsuspecting Victims
	2-1-207	Juvenile Restitution and Other Financial Obligations
Policies:	A-8	Telephone Calls, Voice/Electronic Mail and Correspondence
	B-1	Case Confidentiality - Client's Right to Privacy
	B-2	Inter and Intra-Agency Confidentiality

Attachment

M. Torres

APPROVED BY:

Victims' Bill of Rights Act of 2008: Marsy's Law

On November 4, 2008, the People of the State of California approved Proposition 9, the Victims' Bill of Rights Act of 2008: Marsy's Law. This measure amended the California Constitution to provide additional rights to victims. This card contains specific sections of the Victims' Bill of Rights and resources. Crime victims may obtain additional information regarding Marsy's Law and local Victim Witness Assistance Center information by contacting the Attorney General's Victim Services Unit at 1-877-433-9069.

Marsy's Law also amended California Penal Code sections 3041.5 and 3043 in regards to lifer Parole Suitability Hearings. Click [here](#) for more information regarding these changes.

California Constitution, Article I, Section 28(b)

In order to preserve and protect a victim's rights to justice and due process, a victim shall be entitled to the following rights:

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.
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 presentence 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.
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).

SOURCE: *Office of the Attorney General - Victim Services Unit*