



## Office of Victims' Services Ê

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# Appeals & Victim Rights

for cases that do not involve the death penalty

### What is an appeal?

An appeal is when the defendant asks a higher court (appeals court) to decide if s/he got a fair trial. In California, any defendant who is found guilty of a felony after a trial has the right to ask for an appeal.

### Is an appeal similar to a trial?

No. An appeal is different than a trial. There are no witnesses and no jury. The lawyers present their cases (mostly in writing) to a panel of judges. The judges will decide if the defendant got a fair trial or not. They will not reconsider what happened during the crime.

### How long will the appeal take?

The defendant has 60 days after sentencing to tell the appeals court s/he will appeal. If the defendant appeals, the Attorney General's Office will assign a lawyer (Deputy Attorney General) to defend the appeal.

The Deputy Attorney General and the defendant's attorney will prepare written arguments for the judges. This may take 6–9 months. In some cases, the lawyers from both sides argue before the judges (oral argument).

Then, the judges take about 90 days to prepare a written decision on the case. The whole process takes 9 months to a year, or more.

### What can the judges decide?

The judges can decide to affirm, modify or reverse the case.

### What if the case is affirmed?

If the judges decide to affirm, this means they agree with the original decision. There will be no change to the conviction or the sentence.

But, this does not necessarily mean the case is over. The defendant may ask the judges to review the case

again. Or, the defendant can appeal to the California Supreme Court or a federal court.

### What if the case is modified?

This means the judges have changed part of the conviction or the sentence. If this happens, the defendant may ask the judges to review the case again or appeal the case to the California Supreme Court. If a review is not requested, usually the trial court will make the changes.

### What if the case is reversed?

This means the judges have decided to throw out the original conviction or sentence. They may send the case back to the original trial court for a new trial (called a retrial). Or, they may overturn the case. This means the case is over and there will be no new trial.

### Can the Attorney General's Office ask to have the judges' decision changed?

Yes. In some cases, the Attorney General's Office may ask the judges to reconsider their decision. Or, they may appeal to the California Supreme Court.

### Can the Attorney General's Office of Victims' Services (OVS) help me?

Yes. Our goal is to support and serve victims and survivors of crime, even after the trial is over. Appeals can be confusing and frustrating.

OVS will track your case and let you know what is happening with the appeals process. We can also answer your questions. We can help you during and after the appeal.

Call OVS to speak to an advocate over the phone. (877) 433-9069 toll-free!

### How will I know if there is an appeal?

Fill out a Victim Notification form after the defendant is sentenced. Your local Victim Witness office will

give you the form and can help you fill it out. Or, contact OVS directly.

### **What if I do NOT want to know about the appeal?**

Some victims do not want to know about the appeal because it will remind them of the pain and trauma they experienced from the crime.

If you do not want to know what happens to the case, say so on the Victim Notification form that your local Victim Witness office asks you to fill out after the sentencing.

### **What if the defendant does not appeal?**

If the defendant has not appealed by the deadline, we will send you a letter saying there will probably not be an appeal.

If the deadline has not passed, but we don't have any information about an appeal, we will let you know that we are still waiting to see if the defendant will appeal.

### **What if the defendant appeals?**

If the defendant has appealed, we will send you a letter to let you know about the appeal. We will also ask you if you want to go to the oral argument (if there is one). And, when the appeal is decided, we will let you know.

Remember: You can always call OVS if you have any questions about the appeal.

### **Can I go to the oral argument?**

Yes, but most appeals do not have an oral argument. If you are interested in going, let us know. We will tell you if one is scheduled and where it will be.

### **Can I have a copy of the judges' decision?**

If your case was modified or reversed, we will send you a copy of the judges' decision.

If it was affirmed (nothing changed), you will not be sent a copy. If you would like a copy, ask us to send you one.

### **Resources**

OVS publications for victims and support agencies include:

- Help for Victims of Crime (discusses all OVS services)
- Capital Case Guide (for death penalty cases)
- Execution and Clemency

These materials and more information about OVS are available in print or on-line at:

[www.ag.ca.gov/victimservices](http://www.ag.ca.gov/victimservices)

### **Need more help?**

Call us, or write us at:

Office of the Attorney General  
Office of Victims' Services  
1300 I Street  
P.O. Box 944255  
Sacramento, CA 95814

Tel: (877) 433-9069 toll-free!

e-mail: [victimservices@doj.ca.gov](mailto:victimservices@doj.ca.gov)