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A Handbook  
for  
Victims of Crime  
in  
Alaska

Revised September 2001

[alaska judicial council](#)

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# A Handbook for Victims of Crime in Alaska

- ☞ The Alaska Judicial Council nominates applicants for judgeships and evaluates judges standing for retention. It makes recommendations to the legislature and the supreme court to improve the administration of justice. It is located at 1029 West Third Avenue, Suite 201, Anchorage, AK 99501, (907) 279-2526, e-mail: [teri@ajc.state.ak.us](mailto:teri@ajc.state.ak.us).
- ☞ Copies of this booklet in English and Spanish are available from the Alaska Judicial Council. It can be downloaded from the Internet at <http://www.ajc.state.ak.us>. The Judicial Council also publishes “A Guide to Alaska’s Criminal Justice System,” with more information on how criminal cases are handled in Alaska.

This booklet was written in 1995 as a joint project of Victims for Justice and the Alaska Judicial Council. The Judicial Council updated it in 1998 and 2001. Parents of Murdered Children in Cincinnati, Ohio allowed us to use their pamphlet as a foundation. We thank them for their help.

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## Introduction

Being a victim of a crime can be a very difficult experience. Each person deals with being a victim in his or her own way. If a person has been victimized, he or she may feel anger, guilt, shame, insecurity, fear, powerlessness, and depression. Victims do not have to live with all of these emotions alone. Many people can help them understand this experience and support them as they work through it.

This handbook was written to help crime victims. The more they know about the criminal justice system, the more comfortable they will feel when events happen. They also can start to influence those events. This booklet will not solve all problems or answer all questions, but it will answer many of them, and show victims and others how to get help with the rest.

## Part I.

### What Happens After a Crime Occurs

In the United States and Alaska, citizens consider a person who is accused of a crime to be innocent until proven guilty. The public demands a fair process for a person accused of a crime, to lessen the chance that an innocent person might be punished for something he or she did not do. Citizens want to be sure that the government does not misuse its immense power to decide guilt and punishment.

The police officer, prosecutor, defense attorney, judge, jury, and probation/parole officer all play important roles in the case. The victim can choose to participate at some points. Victims often are called to testify as witnesses. The following pages explain the roles of each person, and how victims can take part in the proceedings.

### Police

When a crime occurs, usually the first person to go to the scene is a law enforcement officer. The officer investigates the crime by gathering physical evidence, questioning witnesses, photographing or videotaping the scene, and collecting other information. If police find evidence to show that a certain person committed the offense, they may file criminal charges against that person, or they may refer the case to the state or municipal (city) prosecutor. Police officers sometimes arrest a defendant when they file charges.

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Once someone reports a crime to the police, the case can go forward even if the victim does not want it to. Sometimes victims or parents of victims change their minds about wanting to prosecute the offender. However, the prosecutor can take the case to trial anyway. A victim advocate can help victims sort through their feelings about this issue. On the other hand, the prosecutor may decide to not file charges if he or she believes the evidence will not support them at trial.

If the police question a person, that person should be honest about what he or she knows. Survivors or relatives of a homicide or murder victim must give honest answers about the victim. Holding back information can hurt the investigation. Persons being questioned by the police should tell about any evidence that may help the case. If people later remember more information, they can call the police and add the information to their statements. People have the right to speak freely or not to speak at all.

Police officers must be fair in their investigation and they must look at all possibilities. Often the police cannot give a victim much information until after they question or arrest a suspect. The police may keep some information about the crime private, to help them question a suspect who knows things about the crime that only the person who committed it could know.

Victims may want to know more information than the police or the prosecutor can give. The investigation of a crime can be very hard on victims and survivors. This is a good time to call a victim support group for assistance. The back of this booklet lists many of these groups. They can help victims work with the police and the prosecutor to get the information they need.

Sometimes police identify one or more suspects but do not have enough evidence to charge anyone. In other cases the police do not identify a suspect right away. Police keep case files for serious crimes open for a long time. Crimes sometimes are solved long after they happen. The police can not stay in constant contact with a victim or family, but the victim or family can contact them regularly.

The police or prosecutor may have to hold some of a victim's personal things for a time as evidence. The police agency or prosecutor handling the case will decide what they can release to the victim. They will provide a list of the things they are holding, so the belongings can be returned as soon as possible.

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## Medical Exams

Anyone who knows something about a person who has died must report the death to the police and to the state medical examiner, unless a doctor was present at the person's death. Often it is the medical examiner who decides that a person did not die of natural causes, and who orders an autopsy. The autopsy tries to find out how a person died, and it documents any harm suffered by the victim. The medical examiner can order an autopsy without permission from the victim's next of kin (closest relatives). The medical examiner keeps control over the body of the victim until it is taken to a funeral home chosen by the victim's next of kin.

Victims of sexual assault or abuse may be asked to have a medical exam at a nearby hospital or clinic. If the sex offense has just happened, an immediate medical exam may provide the evidence needed to convict the offender. These exams may be stressful both for adults and children. Most larger communities have a victims' organization that will send a trained advocate to the hospital with the victim. Whether or not an advocate goes with a victim, a close friend or family member can go along.

Victims of domestic violence, child abuse, assault, and drunk driving also may be asked to have a medical exam. The sooner the exam takes place after the offense, the more evidence can be saved. Generally these exams cause less stress than exams for sex offenses, but victims still may want to bring a friend or an advocate for support.

## Court Hearings

Before a person who is accused of a crime goes to trial, the court may hold several hearings. The number of hearings often depends on how serious the offense was. These hearings can include:

**First Appearance.** A case officially starts when the prosecutor or police officer files charges against a person suspected of a crime. Suspects often are arrested, either before or after they are charged. A suspect who has been charged with a crime is called the "defendant." Usually, the first time a defendant goes to court is for "arraignment." At this time the judge tells the defendant what crime he or she is charged with. The judge makes sure the defendant has an attorney (also called a lawyer) if the defendant wants one, and sets the bail. If the only crimes charged are minor offenses (misdemeanors), the defendant must plead "not guilty" or "guilty" or "no

contest." If a felony (serious offense) is charged, the defendant usually comes back to court later to enter the plea.

**Bail.** The Alaska constitution says that a defendant has the right to bail. The judge can set conditions to assure that the defendant will appear for trial and will not commit other crimes. The constitution gives a victim the right to protection from the defendant, and the right to speak at the bail hearing. At the hearing, the judge decides how much money or property, if any, the defendant should put up as bail. The judge may require that another person supervise the defendant. This person usually is called a third party custodian, and he or she must follow court conditions. If the custodian does not, that person could be charged with a crime too. The judge also sets conditions of release to protect the victim and the public.

If the defendant can not meet the bail conditions, the defendant stays in jail. However, defendants can ask the judge to review bail at any time until the end of the case. The victim has the right to be present and comment at any bail review hearing.

If a defendant puts up bail and then does not show up for a hearing, the government may keep the bail money or property. If the defendant has been released on a performance bond, and then violates any condition of the release, the government may keep the bail money or the property. The defendant also may be arrested, put back in jail and charged with the additional crime of violating conditions of release.

**Grand Jury.** A grand jury may consider the case if it is a felony. The grand jurors review the evidence against an accused person. This may happen either before or after the person is arrested. Police officers, victims and witnesses testify. The testimony becomes part of the public record once a person is charged. The grand jury hearing is closed, which means that no one can watch or listen to it. Anyone who receives a subpoena (a court order) to testify at a grand jury hearing must go. If the grand jury decides the prosecutor has enough evidence to take a person to trial, it indicts (states the charges against) the accused person. If not, the accused person goes free.

**Pretrial Motions.** The judge may hold several hearings before the trial. One of these may be a suppression hearing, for the defense to challenge some or all of the prosecution's evidence. The purpose is to make sure that the prosecutor uses at trial only evidence that was gathered properly and legally.

**Guilty or No Contest Plea.** After the pretrial hearings, the case can go to trial. Most defendants choose to plead guilty or no contest to a charge. When

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this happens there is no trial. No witnesses testify. Instead, the prosecutor provides a statement of facts to the judge, and tells the judge about any agreements the prosecutor and the defendant made about the plea. A guilty plea or a no contest plea means that the defendant is convicted and sentenced for the criminal charge. The victim or another person can use a guilty plea in a later civil law suit, to prove the defendant committed the crime.

**Trial.** If a defendant pleads not guilty a trial is held, at which the judge or a jury decides if the defendant is guilty. Defendants have the right to have a jury hear their case, but they may choose to have a judge hear it instead. At the trial, the prosecution presents testimony and evidence first. Then the defense may present testimony and evidence for the defendant, if it chooses to do so. If the defendant presents evidence, the prosecutor may present additional evidence. The defendant never has to testify, but may do so if he or she chooses.

After hearing the evidence, the judge or jury must decide if the defendant is guilty. All the jurors in a criminal case must agree on this decision. If the jury cannot agree, the judge may order a new trial to be held in front of a different jury. Other problems also can cause the judge to call for a new trial.

If the judge or jury finds the defendant not guilty, the defendant is free to go. If the judge or jury convicts the defendant (finds the defendant guilty), the judge will sentence the defendant.

**Timing.** Alaska has rules to make sure that courts hold trials on time. Even so, the pretrial process may take six to twelve months, or even longer, to finish. The attorneys and the judge cannot control all of the delays in the process. Delays probably will happen, and this can be difficult for the victim. Court dates often change.

## Prosecutor

The prosecutor is the attorney who represents the government. That means the prosecutor is the lawyer for the people of a community against a person charged with a crime. Prosecutors who work for the state are called district attorneys. A few cities hire prosecutors to enforce city ordinances. One or more prosecutors handle the case through the pretrial hearings, the trial, and any appeal. If the case goes to trial, the prosecutor must prove “beyond a reasonable doubt” that the defendant committed the crime. Prosecutors try to do this by having witnesses testify and by presenting physical evidence.

Most cases do not go to trial, because the defendant pleads guilty or no contest. The prosecutor may agree to dismiss or reduce some charges, or to make favorable recommendations to the judge at sentencing. This arrangement is called a plea agreement or plea bargain. In deciding whether to offer a plea agreement, a prosecutor looks at how strong the evidence is and what the sentence is likely to be. Victims have the right to speak with the prosecutor, but only the prosecutor can decide whether to offer a plea agreement. The prosecutor must consider society’s best interests, along with the interests of the victim or the victim’s survivors.

The prosecutor also can decide to dismiss all the charges against the defendant or choose not to file charges at all. Although the judge also can dismiss charges it is unusual. If the judge dismisses charges because of an error that can be corrected, the prosecutor may file the charges again. The prosecutor may have many reasons for dismissing the charges. If charges are dismissed or a defendant is acquitted, the victim may still file a civil case, in most instances. To do this, the victim needs to ask for legal advice from a lawyer other than the prosecutor.

The prosecutor or a victim-witness coordinator can give victims information about their case. They can help prepare for trial and sentencing, and they can give information about how to apply for crime victim compensation. The district attorney’s office has booklets on sexual assault, domestic violence, stalking, victims’ rights, and safety planning (see Directory of Services in the back of this booklet for phone numbers).

## Defense Attorney

The United States and Alaska constitutions say that a defendant has the right to have an attorney. A defendant cannot be convicted or sentenced unless the defendant has an attorney, or does not want an attorney. If a person accused of a crime cannot afford to pay for an attorney, the government will provide one, for the trial and one appeal. The defense attorney works for the best interests of the defendant, not the interests of the prosecutor, the judge, society, or victims.

Courts must follow rules of evidence, rules of procedure, and principles of constitutional law. An important job of the defense attorney is to make sure that the prosecutor and the judge follow the rules. The defense attorney does not need to prove that the defendant is innocent. Instead, the defense attorney makes sure that the defendant’s legal rights are not violated.

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Victims and families may be shocked and angry at the strategies a defense attorney uses. They may hear unpleasant things or things they believe to be untrue about themselves or about people close to them. However, the defense attorney has an ethical obligation to only present evidence that is based on facts. Being cross-examined by a defense attorney often is difficult. A witness should try to stay calm and answer questions as simply and honestly as possible. The assistance of a victims' support group can be very helpful at trial.

People sometimes feel that the defendant has more rights than the victim or than society. However, it is important that a competent and thorough defense attorney represent the defendant. A good defense attorney lessens the chance that the prosecutor or the judge will make a mistake at the trial, and therefore lessens the chance that the courts will overturn the conviction on appeal.

A defense attorney or a defense investigator may want to speak with the victim or others before the trial. No one has to talk with the defense unless the court orders the person to do so. The defense cannot tape record any interview without the witness's permission. The victim or family may wish to talk with the prosecutor before talking to a defense attorney or defense investigator.

## **Judge**

Judges do many things in the criminal justice system. Most important, the judge must make fair decisions. A judge cannot take sides in a criminal case; he or she must treat everyone fairly. The judge cannot have any personal contact with the victim or members of the victim's family while the case is going on. The judge cannot meet with an attorney, victim, witness, defendant, juror or any other person involved in the case, unless the attorneys for both sides are present.

The judge decides what evidence to admit in the case, using the law, rules of evidence and rules of procedure. The judge also controls the timing of the case by setting deadlines and making the prosecution and defense meet the deadlines. Victims and their families often want the case to finish as soon as possible so that they can go on with their lives. However, many things can happen to slow a case.

After a felony trial (or after a defendant pleads guilty or no contest to a felony offense) the judge schedules a later time for sentencing. In a misdemeanor (less serious) case, the judge may sentence the defendant right away. The defendant may or may not be sentenced to serve time in jail, and may or may not go to jail right away, depending on many factors.

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## **Jury**

A jury is a group of citizens that the court randomly chooses from the community using the permanent fund distribution list. Before choosing jurors in a criminal case, the judge or the attorneys ask potential jurors some questions. They want to find fair and impartial people to be on the jury. For example, a jury member should not have personal knowledge about the crime or be related to any person involved in the case.

The jury (or the judge if the defendant has chosen to have the judge try the case) decides if the prosecution has proven the defendant guilty, based on the evidence presented in court. Jurors usually do not hear evidence about the character of the defendant or the victim, to make sure that they decide the case based on the current offense and not on feelings about a person's past behavior or character. If the defendant argues that he or she acted in self-defense, then the judge or jury may hear more about the victim's character. The courts have special rules for child abuse and domestic violence cases that allow the jury to hear evidence about past acts of child abuse or domestic violence by the defendant. Sometimes victims and others may feel frustrated about what facts the judge will and will not allow as evidence, but the judge must follow the court rules.

Victims may watch the trial, but cannot try to influence it in any way. Some of the evidence and testimony may be very painful, but if victims react to it, they could cause the trial to be stopped. Jury members may feel sympathy for victims, and a victim's emotional display could affect their ability to decide the case fairly. Victims should be careful about talking about the case in hallways, elevators, restrooms, or even restaurants near the courthouse. Jurors could be there and they might hear the comments.

## **The Victim's Role as a Witness**

Victims can play an important role in the trial as witnesses. If they receive a subpoena (an order from the court requiring them to testify) they should go where it tells them to at the proper time. The prosecutor may want to talk with them before trial to find out what they know. Victims have the right to watch the trial and sentencing, whether they are testifying or not.

Even if they do not want to testify, the prosecutor may continue to prosecute the case. This is because crimes are offenses against society as well as offenses against a victim. The prosecutor may subpoena victims to testify,

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even if the victim is related to the defendant, and even if the victim does not want to testify.

People who testify should try to remember these ideas:

1. Always tell the truth. Do not guess at answers or give an opinion unless the judge asks for it. If you don't know the answer to a question, say you do not know.
2. Think before speaking. Make sure you understand the question. Answer the question and then stop. Don't memorize answers.
3. Speak loudly enough for everyone in the courtroom to hear. Answer questions out loud so that the tape recorder picks them up. Don't just nod your head.
4. Try to stay calm. Do not become angry or argue, even if an attorney suggest something that you think is wrong or seems angry with you.
5. Stop talking if an attorney objects or if the judge interrupts. Begin again when the judge tells you to continue. If you have forgotten the question, ask to hear it again.
6. If an attorney asks if you have discussed the case with anyone, answer truthfully. It is okay to have talked with the police, prosecutor, defense investigator or attorney, family and friends.

In some cases, the court may set up special protections for child victims and witnesses under age 13. The court may hold a hearing to decide if a child needs special conditions. If so, the judge may order the use of one-way mirrors or closed circuit television to reduce emotional harm and stress to the child.

Earlier sexual conduct of victims of sexual assault or abuse cannot be discussed at trial unless the defendant gets a special order. If the defendant asks for an order the judge will hold a private hearing to decide if the value of the evidence is greater than the harm it would cause to the prosecution and the victim's right to privacy. Also, if the defendant argues that he or she acted in self-defense, the judge may allow the attorneys to present a great deal of information about the victim's character.

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## Part II.

### What Happens After Conviction

#### Sentencing Hearing

After an offender is convicted, the judge imposes a sentence within limits set by lawmakers. A judge has some choices, but the criminal code and case law set out the shortest and longest possible sentences, aggravating and mitigating factors that the judge must consider, and guidance about acceptable sentences.

Sentencing hearings are usually short. Attorneys may bring in evidence and witnesses at the hearing. The defense attorney may speak for the offender, and may note factors that the judge could use to lower the sentence. The prosecutor gives the government's position, which may include reasons why the judge should lengthen the sentence or set certain conditions. If the crime is a felony (a serious crime) a probation officer from the Department of Corrections files a written presentence report in some cases. The report tells about the offender's earlier criminal history, education, jobs, drug and alcohol use, and mental health. The report also tells the facts of the case, and how the crime affected the victims. The victim may speak and the offender may speak.

**Victim Impact Statement.** When preparing a presentence report, a probation officer will contact victims of the crime and ask them if they would like to give a victim impact statement. This statement goes to the probation officer, the prosecutor, the defense attorney and the judge. The statement lets the victim tell the judge about the different kinds of injuries caused by the crime. The victim can ask for restitution and for conditions of probation that will help to protect the victim and any others affected by the crime. Besides writing a statement and talking to the probation officer who is writing the presentence report, the victim has a right to speak at the sentencing hearing. If the crime is a misdemeanor (a less serious crime) no presentence report will be prepared. However, a victim of a misdemeanor may speak at the sentencing hearing, and may also give a victim impact statement. A victim who wishes to do so should contact the prosecuting attorney.

The court process itself may help some victims with their healing process, and may bring a sense of satisfaction or completion. Not all victims experience this, even when they choose to participate by making statements. Each person's reaction is individual, and victims' advocates, counselors and friends



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can provide support and understanding to help cope with the experiences with the justice system.

**Sentences.** Sentences can have several parts: jail time, suspended time, probation with conditions, and fines. Jail sentences may range from no time in jail to more than 99 years, depending upon the offense, the history of the offender and many other factors set out in the law. At the time of sentencing, an offender receives credit for any jail time he or she served before the trial and sentencing.

Usually, if a defendant is sentenced to jail time and must serve some of it, he or she goes to jail right away. Some reasons why the defendant might not go to jail right away include an appeal, lack of space in the jails, or permission from the judge to take responsibility for a family or job before starting to serve the sentence.

## Incarceration

Incarceration means that the offender's freedom is taken away. Once the judge says that a defendant will be incarcerated, the Department of Corrections decides where the defendant will go. The choices include:

**Prison or Jail.** These may be maximum, medium, or minimum security institutions. Most prisoners serve their time in Alaska, particularly if it is less than two years, but some may go to prisons outside the state for a variety of reasons. Offenders with short sentences (less than six months) usually serve them in local institutions or CRCs (see below). While the offenders are incarcerated in prison, jail, or in a CRC, the institutions usually offer opportunities for them to work, get some treatment, education or other help. The services offered depend on the offender, the length of the sentence, and the institution.

**Halfway Houses/Community Residential Centers (CRCs).** These institutions usually are operated by private corporations (profit or nonprofit) that are paid by the Department of Corrections to house offenders. Offenders may have opportunities to work in the community at paid jobs or as volunteers. Offenders at CRCs sometimes have permission to go into the community for a short time, to work, to do community work service, to get treatment, to go to school, or for other approved reasons. If an offender leaves the CRC without authorization, a warrant is issued for arrest, and the offender may be charged with escape. Some CRCs also supervise offenders who are on bail.

**Residential Treatment.** If an offender is receiving treatment for alcohol or substance abuse or other problems in a place that restricts the offender's liberty and provides 24-hour security, the offender may receive credit for time served just as if the offender had spent the same amount of time incarcerated. Again, the offender who has done well in treatment may have limited permission to go into the community for approved reasons.

**Electronic Monitoring.** If a defendant is electronically monitored, either before or after conviction, the defendant must wear an "ankle bracelet" always. This device transmits signals to a central location constantly. If the defendant moves outside the permitted places, the movement sets off an alarm at the central location and a security officer immediately checks the situation. Sometimes the electronic monitoring system is combined with a system that allows security officers to check using the telephone to see if the defendant has been drinking. Usually the defendant pays the costs of these types of monitoring.

**House Arrest.** This is another name for a Department of Corrections program called the Community Residential Centers (CRC) Offender Supervision Program. The offenders who qualify are within six months of release from incarceration. They live at home and work at an approved job, but are supervised by the CRC staff. They must stick to strict schedules, obey their conditions of release, make restitution and report their activities daily. This program lets the Department of Corrections assure public safety and at the same time, helps the offender become a responsible person. If an offender violates any of the conditions of house arrest, the offender can be returned to incarceration. Victims may comment on an offender's house arrest status and inform the department of any special concerns.

## Probation/Parole

Probation and parole are different legally, but similar in many ways. They refer to periods after the offender is convicted during which the offender is not in jail, but still must live under conditions that the judge or Parole Board decide. These conditions can include making restitution to the victim, getting assessment or treatment for substance abuse problems, getting training in anger management or parenting, not drinking or abusing drugs (and getting tested to assure this), getting a job or being financially responsible, or staying away from the victim or from certain places or people. Also, the offender must not break any laws.

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**Probation.** The judge may sentence an offender to a period of probation, either as the only sentence, or with jail time. Or, the judge may impose a jail sentence, suspend (hold back) some or all of the jail time, and put the offender on probation. Probation lasts from a few months up to ten years. If the offender violates the conditions of probation, the probation officer asks the prosecutor (or may file a request directly with the court) to ask the judge to revoke the probation. If the judge finds that the offender has violated the conditions of probation, the judge can send the defendant to jail. This will happen after a hearing at which the prosecutor, defendant, defense attorney, probation officer, and possibly others testify.

Offenders convicted only of misdemeanor offenses are not supervised while they are on probation. The judge may set conditions of probation that the offender must follow, but if the offender does not obey, the judge often does not find out about it. If the judge does find out, usually a bench warrant is issued that calls for the offender's arrest. When the offender is brought back into court, the judge can revoke the probation and send the offender to jail.

**Parole.** Parole is a type of release that happens after an offender has served some time in jail. There are different types of parole, legally, but all offenders on parole are under the authority of the Parole Board, not the judge. The Parole Board is a group of citizens with the authority to decide conditions of parole (much like conditions of probation) and to send an offender back to jail if the offender does not obey the parole conditions.

The Parole Board holds hearings to decide whether offenders who are eligible for discretionary parole will receive it. They consider the seriousness of the offense, the offender's criminal record, the behavior and progress while incarcerated and the plans for the future. Victims may write to the Parole Board about the cases they were involved in, or may appear at a hearing. The victim is not required to do any of this.

The Parole Board cannot refuse to release offenders who are on mandatory release because the offender has earned enough "good time" to be released. The law requires the Department of Corrections to reduce the offender's sentence by one day of good time for every two days during which the offender behaved well in prison. Although the prisoner must be released when he or she has built up enough good time, the Parole Board still sets conditions that the offender must follow or be returned to jail.

**Probation/Parole Officers.** The same employees of the Department of Corrections supervise all of the offenders who are on felony probation or parole. Usually, they are called probation officers. The officer keeps track of

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the offender to make sure that the offender follows the judge's or Parole Board's conditions. The probation officer also may help the offender find a job, get treatment, find housing or go to school. Some probation officers have extra training to work with sex offenders, repeat offenders, or other special situations.

The probation officers also write pre-sentence reports for some felony offenders before the sentencing occurs. The pre-sentence report describes the offense, tells the offender's prior criminal record, gives the judge information about education, work history, mental health, substance abuse and any information that would help the judge decide what sentence to give. It includes information about the effect that the crime had on the victim.

## Restitution

If the crime caused expenses such as property damage, lost wages or medical expenses, the judge may order the offender to pay restitution to the victims and others. When victims ask for restitution it is important that they have good records of their losses and receipts for their expenses. The judge may hold a hearing to decide the amount of restitution. Restitution payments can be collected while an offender is in prison. Offenders often make payments each week or each month and the payments are given to the victim. Restitution in criminal cases can repay victims only for their actual monetary expenses or losses. To recover for other losses, such as pain and suffering or loss of companionship, victims or others must file a separate civil law suit against the defendant.

## Restorative and Therapeutic Justice

Many new programs in the justice system work to involve victims and communities in criminal cases as more than witnesses. The programs have several purposes: they help victims heal and often help them get restitution. They work to make offenders more accountable and better citizens. Communities can be made whole by working with both victims and offenders in different ways.

The court system or Judicial Council can provide information about these programs. They include drug courts, mental health courts, drunk driver courts, domestic violence courts, circle sentencing, victim-offender mediation, and a variety of juvenile programs. In many communities, tribal courts or councils

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work with offenders and victims, often cooperating with the state courts. The programs do different things and may not be suitable for all victims.

### **Appeal and Post Conviction Process**

Offenders convicted at trial have the right to one appeal. The defense tells the appellate court in writing about the parts of a case where mistakes may have occurred. Some reasons defendants may appeal include their belief that their arrest was improper, that the judge admitted evidence that should not have been admitted, or that the judge gave improper instructions to the jury. Some offenders also appeal the length of their sentences. The prosecution responds in writing to the offender's arguments. These written arguments (called "briefs"), and a transcript or tape of the trial, go to the appellate court for review. No one gives new evidence or testimony, but the court may hold a hearing to listen to the attorneys for both sides explain their arguments.

The appellate court may either affirm (agree with) or overturn the conviction. It also may decide that the sentence is incorrect for some reason and tell the trial court what guidelines to follow to re-sentence the offender. If the court overturns the conviction, the prosecutor sometimes files the charges against the defendant again. The state supreme court may review cases after the court of appeals has made a decision.

An offender also may ask the trial court judge to change the sentence or overturn the conviction. The offender may argue that the defense attorney was not effective, that new evidence has been found, or that the judge did not understand the law. Sometimes offenders give new evidence or testimony to support a request for this type of relief.

The appeals process may take a year or more and the delay can be frustrating. Victims have the right to be told about these proceedings and to attend them but they do not need to be there. The prosecutor's office and local victim assistance programs have more information about appeals.

### **Part III.**

### **Other Matters Juvenile Offenders**

For defendants who are juveniles (under age 18), the law has very different procedures. The Division of Juvenile Justice, part of the Alaska Department of Health and Social Services, handles most juvenile cases. In less serious cases, a juvenile intake officer decides an appropriate outcome (for example, requiring the juvenile to do community work service, write a letter to the victim, or pay restitution). If the offense is serious enough to require court action, the intake officer sends the case to a judge for an adjudication hearing.

One goal of juvenile proceedings is to help troubled teenagers grow into law-obeying adults. Whenever possible, the system tries to find alternatives to locking juveniles up. Judges can sentence juveniles to a youth correctional facility only when necessary to protect the public.

If a juvenile is charged with a very serious crime, the case may be tried in adult court. This always happens for 16- and 17-year-olds charged with murder, kidnaping, armed robbery, first-degree arson, first-degree assault, and serious sexual assaults. A prosecutor also may ask that a child younger than 16 be tried in adult court if the child is charged with a very serious crime, has a history of committing crimes, or is unlikely to be rehabilitated before age 20.

Most juvenile proceedings are closed to the public. A victim of a juvenile crime can get information about the case and can attend all proceedings that the juvenile has a right to attend. A victim has the right to make a statement before sentencing or adjudication. Victims also have the right to be told if the juvenile is released or escapes from custody.

In some communities, intake officers who work for the Division of Juvenile Justice can refer certain juvenile offenders to Youth Court. In Youth Court, teens act as judges, prosecutors and defense attorneys. The Youth Court gives a sentence that the offender must obey. In Anchorage and Juneau, some juvenile cases also can be referred to victim-offender mediation. If the victim agrees, trained volunteer mediators hold a meeting with the victim and the offender to talk about the harm the victim suffered. This helps the young offender understand the seriousness of the crime and its effect on a real person. It may give a victim a feeling of closure and reduce the fear of being

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harmful again by the offender. The victim and the offender also may work out a restitution or repayment agreement as part of the mediation.

### Legal Rights of Victims and Survivors

Victims and survivors have many legal rights. Alaska and the United States have laws that protect the rights of victims, and Alaska has a constitutional amendment that adds to and strengthens those laws. Parents and guardians of child victims, and survivors of victims who have died also have these rights.

- ▼ The victim has the right to immediate medical assistance.
- ▼ The victim has the right to protection from further harm, threats, and harassment by the defendant.
- ▼ The victim has the right to be treated with dignity, respect, and fairness.
- ▼ The victim has the right to talk with the prosecutor.
- ▼ The victim has the right to expect timely disposition of the case.
- ▼ The victim has the right to take part in the process, at the request of the prosecutor or the police. The victim's employer may not punish the victim for participating.
- ▼ The victim has the right to know about and to attend any hearings where the defendant has the right to be present, including juvenile proceedings.
- ▼ The victim has the right to speak at sentencing and at any hearing where the offender's release from custody is considered.
- ▼ The victim has the right, after an offender is convicted, to know the offender's complete conviction record.
- ▼ The victim has the right to restitution (repayment) for monetary expenses and losses from the offender.
- ▼ The victim has the right to be told when the offender is released from custody or if the offender escapes. The victim has the legal right to speak at any hearing.

### Victim Assistance Programs

Many crime victims don't understand how the criminal justice system works and what to expect in or out of court. Some victims have trouble dealing

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with the strong emotions they feel. Programs in Alaska serve crime victims and their families in many ways, at no charge or for payment that considers each family's income and situation. They can help 24 hours a day, every day. The section at the end of this book lists many of the groups that can help.

Victim assistance programs can help different people, in different ways. The victims' advocates who work for the programs can:

- ▼ Help **make a personal safety plan** that the victim or family can use to avoid being victimized again, or to use if someone thinks that he or she might be in danger. If a victim is thinking about leaving a violent relationship, that person should have a safety plan because the risk of violence gets higher when a victim leaves. Victims of sexual assault, sexual abuse of a minor, stalking and harassment also should have safety plans. A victims' advocate can help think about planning for work, travel, housing, moving, child care and other aspects of life.
- ▼ Help **act as support or spokesperson** in difficult situations. Victims' advocates can go with victims to medical exams or to court hearings or appointments. They can help victims find grief or mental health counseling, housing, emergency assistance, compensation from the Alaska Violent Crimes Compensation Board, alcohol or drug treatment, suicide prevention, legal advice, information about immigration or deportation, or job counseling. The victims' assistance programs can help victims find translators or interpreters if they need them.
- ▼ Help the victim **get on VINE** to be notified about future hearings for the offender or about the offender's release from custody. The victim can tell the victims' advocate, or the prosecutor or the Department of Corrections if the victim wants to know where the offender is. VINE is a telephone notification system (Victim Information and Notification Everyday) that will call and tell the victim if the offender is transferred from one institution to another, or if the offender is released or escapes from custody.

**Alaska Violent Crimes Compensation Board.** The Alaska Violent Crimes Compensation Board can help crime victims, people who support them or people who they supported, with some expenses that can occur as the result of a violent crime. The Board may pay some or all of the cost of medical and counseling bills, lost wages, loss of support, funeral expenses and some other losses. The Board cannot pay for property losses or mental anguish.

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A victim or other person must ask for the help of the Board. The Alaska State Troopers, local police, prosecutors and hospitals can help get victims the forms that they need to fill out to qualify. Victims' advocates can help, or a person can call the Violent Crimes Compensation Board at the number listed in the back of this book.

To get help, the victim or others must ask for it within two years of the crime. If the Board makes a decision that the victim does not agree with, the victim can ask the Board for a special hearing within thirty days of the Board's decision. At the hearing, the victim or other person can explain why the Board should give the help asked for.

**Victims for Justice.** Victims for Justice, located in Anchorage, helps victims of violent crime anywhere in Alaska. It sends victims' advocates to court with victims, works with victims and their families in difficult situations, offers grief support, and helps victims find other resources. It sponsors experimental programs that encourage restitution and reconciliation between victims and offenders. It also works for changes in laws and the way the justice system works to better protect victims of crime.

**Mothers Against Drunk Drivers (MADD).** This group helps victims of drunk drivers anywhere in Alaska. It helps victims in court, and sets up victim impact panels to teach drunk drivers about the seriousness of their offenses. MADD also offers community education programs and works for changes in the laws and justice system procedures.

### **Increasing Safety for Victims and Others**

Victims can increase safety for themselves and others in several ways. They can make personal safety plans, ask for temporary or permanent protective orders from the court, tell the court and Parole Board how the crime affected them and what their needs are, and ask to have the VINE system notify them of the offender's location.

**Personal Safety Plan.** A personal safety plan helps the victim and others think about how to be more safe at work, home, and other places. No plan can guarantee safety, but thinking about how to be safe can improve the chances that the victim and others will not be harmed. The plan takes into account how to avoid being followed or harassed, how to protect children, how to have enough money and provisions when needed, where to go in an emergency and who to call on for help. Victims' advocates can help create safety plans.

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**Protective Orders and Conditions of Release.** Victims can ask a judge for a temporary protective order, or for conditions of release for an offender that will reduce the chance that the offender will contact the victim. Again, this cannot prevent contact, but if the offender violates any condition of the order or conditions of release, the court can order the offender's arrest. If a person is a victim of domestic violence (including physical abuse, sexual abuse, threats or stalking done by a present or former spouse, partner, household member or relative), the victim can ask the court for a temporary protective order even if the prosecutor does not file criminal charges. Any courthouse or victims' assistance organization can help fill out the forms and get the order. An attorney does not need to help.

The court can order the offender not to contact, threaten or harm the victim, not to enter the victim's home or workplace, to move out of the house, to surrender weapons, or to take a batterer's intervention program. The court can give the victim temporary custody of the children. If the offender violates the order, the victim can call the police immediately to enforce it. The court also will honor protective orders from another court or another state.

If a victim or person associated with a victim feels threatened or bothered by the offender or someone acting with the offender, that person should contact the police, the prosecutor, or a victim advocate right away. The law says that people have the right to be protected against threats or harassment and future harm, but no one can guarantee the safety of a person.

**VINE.** A telephone notification system called VINE (Victim Information and Notification Everyday) will call and tell the victim or others if the offender is transferred, released or escapes from custody. A person must register with VINE before the system will begin to notify that person. The phone number for registering with VINE is listed at the back of this book. In order for the VINE system to continue to work for the victim or others, the victim must keep the phone numbers that VINE has up to date. If the victim moves or changes their phone number, that person must tell VINE by calling the number at the end of this book. Then the VINE system will automatically call the victim's or other person's phone number whenever the status of the offender changes.

### **Newspapers and Television**

Newspaper and television reporters often want to talk to victims and survivors. It may be hard to deal with them, for many reasons. Reporters have the job of telling a story. They may want to do this with photographs, TV

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scenes, and news stories. It is the victim's or survivor's decision whether to talk to the reporter. Victims and survivors have the right to say "no" to any or all contact with reporters. Victims and survivors also have the right to not give out their names and addresses.

A victim or other person who agrees to give an interview has several choices. The victim can take the time to talk to someone, such as a victim advocate, the prosecutor, friends or others before giving an interview. Or, the victim can agree only to a written statement that he or she can take time to think about. The victim or survivor can refuse to let the reporter talk to children or other family members in the victim's or survivor's care. The victim can ask that only certain quotes, pictures or information be used in the story, but once the reporter has the information, it is the reporter's decision whether to use the information.

If the newspapers and television give the story a great deal of publicity, the defendant may ask to have the trial in a different location (a "change of venue"). This is something for the victim to think about before agreeing to say anything in public. Another thing to think about is the fact that if the case goes to trial, the defense attorney and prosecutor can ask the victim or survivor about any statements that the victim or survivor made before the trial, and can compare them to statements made at the trial or at other times.

### **Civil Lawsuits**

Sometimes victims or survivors file separate cases in court to recover their losses. They can do this even if the prosecutor decides not to file charges, or dismisses the case. Some victims or survivors sue the offender, and they also sue other people who they believe should have prevented the offender's misconduct, such as an employer, a parent or a property owner. A victim can ask for compensation (called "damages" ) for things that cost the victim money, such as medical bills, burial expenses, damages to property and lost time at work. Damages also can include things like mental suffering, pain, grief and loss of companionship. If the offender committed the crime because of the victim's sex, race, religion or other factors, the victim may be able to sue for violation of civil rights.

The laws set time limits to begin lawsuits. If the victim does not file the case quickly enough, or if it is filed in the wrong court, the law may not allow the case to be heard even if it is a good case. To help decide whether to sue, the

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person who wants to sue should talk to an attorney about the case as soon as possible. The person should not wait until the criminal case is decided.

### **Grieving and Healing**

Victims of crimes may feel anger, hatred, self-blame, guilt and confusion. Their sense of trust and order may be shattered. They may have many different feelings and behaviors, and sometimes find it hard to control their emotions. Everyone reacts differently and has a different timetable for healing.

The emotions a victim feels are very personal, and may continue for months or years. Some victims have nightmares or trouble sleeping. Some have periods of uncontrolled sobbing or hysterical laughter, and others have stomachaches, headaches, fatigue or a feeling of going crazy. An individual victim may experience all of these things at different times. Family relationships can change because each family member may deal with these emotions in different ways. Being a crime victim can lead to money problems, family troubles, divorce, substance abuse and other problems. It is important to realize how much the experience has changed each person's life.

In time, healing begins. It may happen slowly, so people should try not to make any big changes in their lives for at least a year. Victims of crime should not push themselves or let others push them to follow a certain timetable, or pressure them into "getting on with your life." They should act when they are ready, not when others tell them they should be ready. They should take time to cry, be angry, feel sad and experience the other feelings they have.

Victims of crime often find that telling their stories helps them heal. Friends, victim advocates and counselors all offer support and will listen. Many other people have had the same experiences and can help victims and their families. One of the victims' organizations listed at the end of this booklet can often help. Sometimes victims participate in victims' panels, or contribute their time to groups that are working to provide more justice and healing for all victims of crime.

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# Directory of Services

## Statewide

**Alaska Council on Domestic Violence  
& Sexual Assault** ..... 907-465-4356  
www.dps.state.ak.us/cdvsa

*Alaska Department of Public Safety: coordination of statewide services, education,  
grants to organizations*

**Alaska Department of Corrections**  
**Parole information** ..... 907-465-3384  
**Probation information** ..... 907-269-7370  
**VINE (Victim Information and Notification Everyday)** 800-247-9763

*victim impact statements, information and referral, notification of release,  
transfer, or escape of offenders*

**Alaska Judicial Council** ..... 907-279-2526  
1-888-790-2526  
www.ajc.state.ak.us

*criminal justice system: booklets on criminal justice system, victim's guide*

## Alaska Legal Service Corporation

*free civil legal assistance to low-income Alaskans: family law, housing, public  
benefits, Native law, consumer law, health issues and wills*

Anchorage	272-9413	Juneau	586-6425
Barrow	852-2311	Ketchikan	225-6420
Bethel	543-2237	Kotzebue	442-3500
Dillingham	842-1452	Nome	443-2230
Fairbanks	452-5181		

**Alaska Network on Domestic Violence  
& Sexual Assault** ..... 907-586-3650  
andvsa.org

*domestic violence/sexual assault: advocacy for victims, public education, training,  
technical assistance*

**Catholic Social Services Immigration  
& Refugee Project** ..... 907-276-5590

*immigration problems resulting from domestic violence, divorce, and criminal  
proceedings*

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## District Attorney Offices

*criminal prosecutions, victim-witness coordinators, booklets on sexual assault,  
domestic violence, stalking, victim's rights, and safety planning*

Anchorage	269-6300	Ketchikan	225-6128
Barrow	852-5297	Kodiak	486-5744
Bethel	543-2055	Kotzebue	442-3396
Dillingham	842-2482	Nome	443-2296
Fairbanks	451-5970	Palmer	745-5027
Juneau	465-3620	Sitka	747-5851
Kenai	283-3131		

**Mothers Against Drunk Driving** ..... 907-562-6890  
Fax 907-562-6896  
madd@corecom.net

*drunk driving: advocacy, court support, court monitoring, public education, victim  
assistance*

**National Domestic Violence Hotline** ..... 1-800-799-7233

*domestic violence: crisis intervention, information and referral, telephone language  
translation and translated materials*

## Office of Public Advocacy

*provides court appointed defense attorneys for criminal defendants who cannot afford  
to hire an attorney, and who for some reason cannot be represented by the Public  
Defender Agency*

Anchorage	269-3500
Fairbanks	451-5933
Juneau	465-4173

## Public Defender Offices

*provides court appointed defense attorneys for criminal defendants who cannot afford  
to hire an attorney*

Anchorage	264-4400	Ketchikan	225-6189
Barrow	852-2520	Kodiak	486-8114
Bethel	543-2488	Kotzebue	442-3736
Dillingham	842-4582	Nome	443-2281
Fairbanks	452-1621	Palmer	745-5660
Juneau	465-4911	Sitka	747-6808
Kenai	283-3129		

**Victims for Justice** ..... 907-278-0977

*violent crime: advocacy, grief support, crisis intervention, assistance for homicide  
and assault survivors*

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**VINE (Victim Information and Notification Everyday) . . . 1-800-247-9763**

*automatic notification of release, transfer or escape of offenders*

**Violent Crimes Compensation Board . . . . . 907-465-3040  
1-800-764-3040  
www.dps.state.ak.us/vccb**

*financial compensation for victims of violent crime*

## **By Area**

### **Anchorage:**

**Abused Women's Aid in Crisis  
(AWAIC) . . . . . Business 279-9581  
Crisis 272-0100  
www.awiac.org**

*domestic violence: shelter, counseling, advocacy, crisis line, children's services,  
batterers' counseling*

**Alaska Women's Resource Center . . . . . 907-276-0528  
akwomens@ak.net**

*domestic violence: crisis intervention, counseling, advocacy, information and  
referral services*

**Chugachmuit . . . . . 907-562-4155**

*sexual assault: response teams, advocacy, training, village outreach*

**Community Dispute Resolution Center . . . . . 274-1542**

*mediation: victim-offender, neighborhood disputes*

**Standing Together Against Rape  
(STAR) . . . . . Business 276-7279  
Crisis 276-7273, 1-800-478-8999  
www.star.ak.org**

*sexual assault/child sexual abuse: advocacy, crisis line*

**Anvik Tribal Council/Tanana  
Chiefs Conference . . . . . 907-663-6322**

*domestic violence: prevention, advocacy, information and referral, village outreach*

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**Barrow: Arctic Women in Crisis . . . . . Business 852-0261  
Crisis 852-0267, 1-800-478-0267**

*domestic violence/sexual assault: shelter, counseling, advocacy, crisis line, rural  
outreach, children's services*

**Bethel: Tundra Women's Coalition . . . . . Business 543-3455  
Crisis 543-3456, 1-800-478-7799  
twcpeace@alaska.com**

*domestic violence/sexual assault: shelter, counseling, advocacy, crisis line, rural  
outreach, children's services*

**Cordova: Cordova Family Resource Center . . . . . Business 424-5674  
Crisis 424-4357  
cfrc@ptialaska.net**

*domestic violence/sexual assault: shelters, crisis line, advocacy, library, public  
education*

**Dillingham: Safe and Fear-Free  
Environment . . . . . Business 842-2320  
Crisis 842-2316, 1-800-478-2316**

*domestic violence/sexual assault: shelter, counseling, crisis line, rural outreach,  
children's services, village safe homes, coordination with Bristol Bay Native  
Association*

**Emmonak: Emmonak Women's Shelter . . . . . Business 949-1443  
Crisis 949-1434, 1-800-478-1434**

*domestic violence: shelter, crisis intervention*

**Fairbanks: Women in Crisis - Counseling  
& Assistance . . . . . Business 452-2293  
Crisis 452-2293, 1-800-478-7273  
women@polarnet.com**

*domestic violence/sexual assault: shelter, advocacy, counseling, crisis line, elder  
abuse, children's services, rural outreach*

**Homer: South Peninsula Women's Services . . . . . Business 235-7712  
(South Peninsula Hospital after hours) Crisis 235-8101, 1-800-478-7712**

*domestic violence/sexual assault: safe homes, counseling, advocacy, crisis line,  
rural outreach, children's services*



**Juneau:**

**Aiding Women from Abuse & Rape Emergencies** ..... **Business 586-6623**  
**Crisis 586-1090, 1-800-478-1090**  
**aware@alaska.com**

*domestic violence/sexual assault: shelter, counseling, advocacy, crisis line, elder abuse, children's services, rural outreach, child sexual abuse counseling*

**Tongass Community Counseling Center** ..... **586-3585**  
**www.ptialaska.net/~tcccjuno**

*domestic violence: batterers' (men & women) counseling, children's services, sex offender treatment, drug and alcohol treatment*

**Kenai/Soldotna: Kenai/Soldotna Women's Resource & Crisis Center** ..... **Business 283-9479**  
**Crisis 283-7257**

*domestic violence/sexual assault: shelter, support, advocacy, crisis line, elder abuse, children's services, transitional living center, men's re-education program*

**Ketchikan: Women in Safe Homes** ..... **Business 225-0202**  
**Crisis 225-9474, 1-800-478-9474**  
**www.wishorca.org**

*domestic violence/sexual assault: shelter, counseling, advocacy, crisis line, rural outreach, children's services, services to victims of other violent crimes, coordination with Ketchikan Indian Corporation*

**Kodiak: Kodiak Women's Resource & Crisis Center** ..... **Business 486-6171**  
**Crisis 486-3625**

*domestic violence/sexual assault: shelter, counseling, advocacy, crisis line, rural outreach, children's services*

**Kotzebue: Maniilaq Family Crisis Center** ..... **Business 442-3724, 1-888-478-3969**  
**Crisis 442-3969**  
(available for collect calls on emergency basis)

*domestic violence/sexual assault: shelter, counseling, advocacy, crisis line, village advocate*

**Mat-Su Valley: Valley Women's Resource Center** ..... **Business and Crisis 746-4080**

*domestic violence/sexual assault: shelter, counseling, advocacy, crisis line, children's services*

**Nome: Bering Sea Women's Group** ..... **Business 443-5491**  
**Crisis 443-5444, 1-800-570-5444**

*domestic violence/sexual assault: shelter, counseling, advocacy, crisis line, rural outreach, children's services*

**Seward: Seward Life Action Council** ..... **Business 224-5257**  
**Crisis 224-3027**

*domestic violence/sexual assault: safe homes, counseling, advocacy, crisis line*

**Sitka:**

**Sitkans Against Family Violence** ..... **Business 747-3370**  
**Crisis 747-6511, 1-800-478-6511**  
**www.ptialaska.net~akwoman/safv**

*domestic violence/sexual assault: shelter, counseling, advocacy, crisis line, rural outreach, children's services*

**Sitka Tribe of Alaska** ..... **1-800-746-3207**

*tribal court: domestic violence prevention, crisis intervention, advocacy*

**Unalaska: Unalaskans Against Sexual Assault & Family Violence** ..... **581-1500**  
**1-800-478-7238**

*domestic violence/sexual assault: safe homes, counseling, advocacy, crisis line*

**Valdez: Advocates for Victims of Violence** ..... **Business 835-2980**  
**Crisis 835-2999, 1-800-835-4044**

*domestic violence/sexual assault: shelter, counseling, advocacy, crisis line, rural outreach, children's services*

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**Alaska Constitution**

**Article I. Section 24**

**Rights of Crime Victims**

Crime victims, as defined by law, shall have the following rights as provided by law: the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court; the right to confer with the prosecution; the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process; the right to timely disposition of the case following the arrest of the accused; the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present; the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody is considered; the right to restitution from the accused; and the right to be informed, upon request of the accused's escape or release from custody before or after conviction or juvenile adjudication.

**Alaska Judicial Council  
1029 West Third Avenue, Suite 201  
Anchorage, Alaska 99501-1969  
(907) 279-2526  
e-mail: [terl@ajc.state.ak.us](mailto:terl@ajc.state.ak.us)  
[www.ajc.state.ak.us](http://www.ajc.state.ak.us)**

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