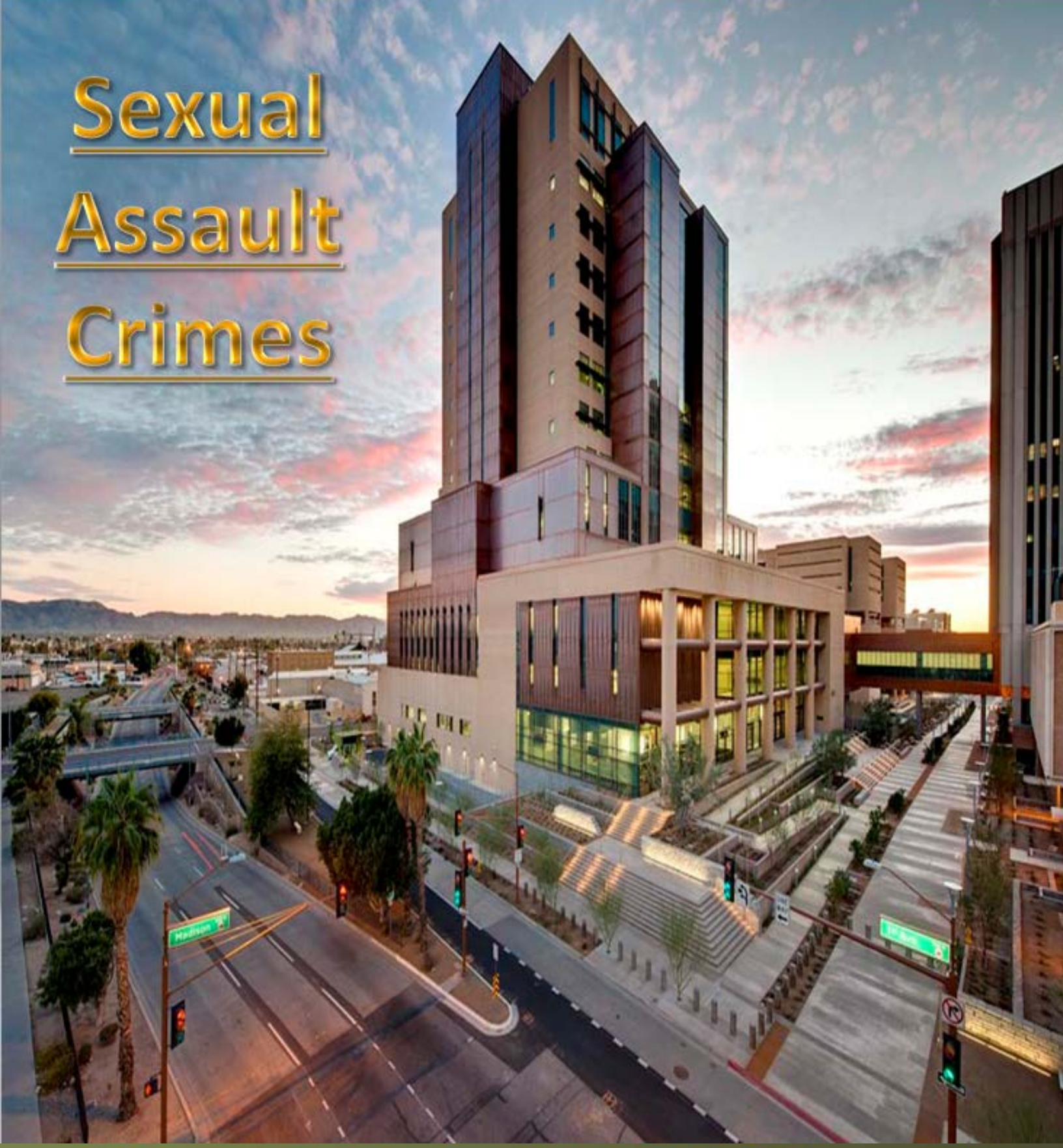
Sexual Assault Crimes



MARICOPA COUNTY ATTORNEY'S OFFICE

Phoenix, Arizona

TABLE OF CONTENTS

TABLE OF CONTENTS **2**
GENERAL OVERVIEW OF MCAO **3**
ADULT CRIMINAL CASE PROCESS FLOW CHART **4**
ADULT CRIMINAL CASE PROCESS **5**
Initial Investigation 5
Follow-up Investigation 5
Formal Charging Procedure 5
Status Conference 6
Preliminary Hearing 7
Arraignment 7
Regional Court Centers (RCC) for Felony Processing 7
Early Disposition Court (EDC) 8
Pretrial Actions/Hearings 8
Initial Pretrial Conference 8
Discovery 8
Settlement Conference 8
Final Trial Management Conferences 8
Rule 11 Hearing and Evaluation 8
Plea Negotiation/Agreement 9
Trial 9
Sentencing 9
Restitution 10
☐Probation 10
☐Prison/Parole 10
☐ Appeals/Post-Conviction Relief (PCR) 10
SERVING VICTIMS **11**
VICTIM'S BILL OF RIGHTS 12
ARIZONA RULE OF CRIMINAL PROCEDURE RULE 39 12
SELECTION FROM ARIZONA REVISED STATUTES 15
TITLE 13, CHAPTER 40 CRIME VICTIMS' RIGHTS 15
VICTIM ADVOCATES **15**
SEX CRIMES DEFINITIONS AND PUNISHMENTS **16**
SELECTED SEX CRIMES STATISTICS **18**

ABOUT US

The Maricopa County Attorney's Office is one of the nation's largest public prosecutorial agencies, serving nearly four million residents in the fourth largest county in the U.S. We have more than 900 full time employees, including attorneys, investigators, paralegals, victim advocates and support staff, each of whom is committed to the ideals expressed on our official seal: *service with integrity, ensuring justice for all*.

MISSION STATEMENT

The mission of the Maricopa County Attorney's Office is to deliver high-quality prosecution, comprehensive victims' services, crime prevention programs and legal representation for County government on behalf of the people of Maricopa County, to provide a safe and well-governed community.

MAJOR CRIMES

Prosecuting serious crimes requires specialized expertise. The Major Crimes Division of the Maricopa County Attorney's Office contains ten separate crime bureaus staffed with experienced prosecutors who work closely with law enforcement agencies to hold criminals accountable for offenses in the following areas: Auto Theft, Drug Enforcement, Family Violence, Fraud & Identity Theft Enforcement (FITE), Gangs, Capital Litigation, Repeat Offender Program (ROP), Sex Crimes, Special Crimes, and Vehicular Crimes.

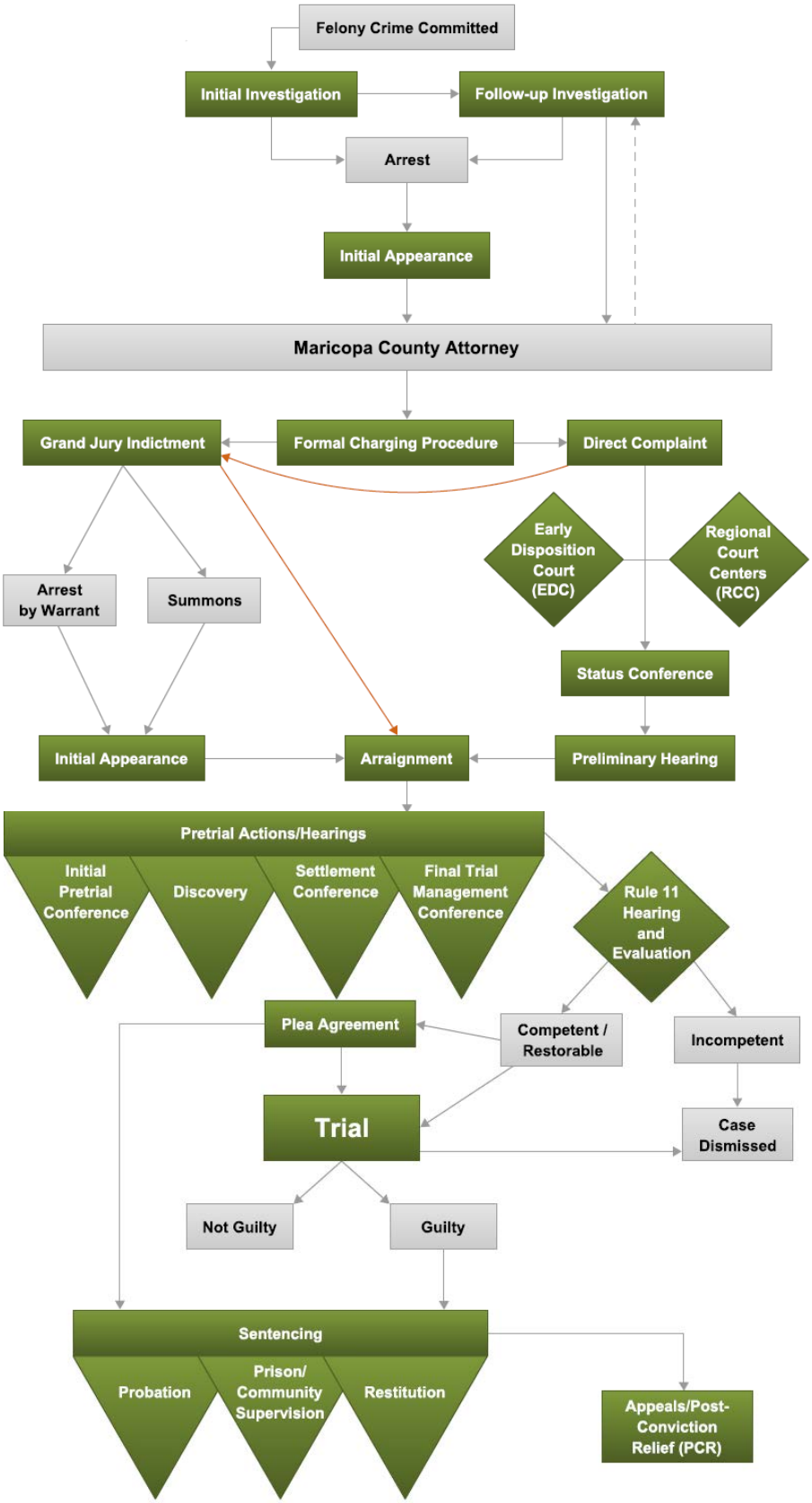
SEX CRIMES

The County Attorney's nationally-recognized Sex Crimes Bureau is responsible for prosecuting cases involving sexual abuse of children and adults, child prostitution, child pornography and computer-related sex crimes. Recognizing the highly sensitive nature of these offenses, attorneys in the Sex Crimes Bureau have undergone specialized training to meet the unique physical and emotional needs of victims of all ages.

In addition, the Maricopa County Attorney's Office contracts with medical professionals to provide the most sensitive and efficient examination of abuse victims. These professionals are available on a 24-hour basis and their services allow victims to avoid waiting long periods of time to be examined. Sadly, many sex crimes go unreported. The key to reducing these offenses is reporting them. If you or someone you know is the victim of sexual assault, help is available through six local advocacy centers listed below, each of which has trained crisis counselors who can guide victims through the reporting process.

CRIMINAL TRIALS

Each of the more than thirty thousand criminal cases the County Attorney's Office prosecutes each year is unique. But most follow a similar path, beginning in the Pretrial Division, which oversees intake, charging, and preliminary hearings, and then moving to the Trial Division for prosecution. Serious offenses or cases requiring particular expertise are assigned to one of the specialized bureaus in the Major Crimes Division. In addition, our Probation Violation Bureau reviews all incoming probation violation petitions and handles other post-conviction motions (other than Rule 32 Motions for Post-Conviction Relief).


Felony Crime Committed
Initial Investigation
Follow-up Investigation
Arrest
Initial Appearance
Maricopa County Attorney
Grand Jury Indictment
Formal Charging Procedure
Direct Complaint
Early Disposition Court (EDC)
Regional Court Centers (RCC)
Arrest by Warrant
Summons
Status Conference
Initial Appearance
Arraignment
Preliminary Hearing
Pretrial Actions/Hearings
Initial Pretrial Conference
Discovery
Settlement Conference
Final Trial Management Conference
Rule 11 Hearing and Evaluation
Plea Agreement
Competent / Restorable
Incompetent
Trial
Case Dismissed
Not Guilty
Guilty
Sentencing
Probation
Prison/ Community Supervision
Restitution
Appeals/Post-Conviction Relief (PCR)

ADULT CRIMINAL CASE PROCESS

The following is a brief description of the process to prosecute an adult accused of committing a felony offense. Most misdemeanor offenses are handled by municipal prosecutors; cases involving minors under the age of 18 are referred to the juvenile court system.

Initial Investigation

When a crime is reported to a law enforcement agency, a patrol officer travels to the scene to investigate. After first assisting anyone who may need medical attention, the patrol officer will interview the victim(s) and any witness(es) and compile a report describing the crime. Police Detectives and crime scene investigators may also respond if there is a need to take special photographs of the scene or the victim, record possible fingerprints, or gather additional evidence. In certain felony cases, such as homicides or vehicular collisions involving serious injuries or death, a Deputy County Attorney may come to the crime scene to assist officers with legal issues in the investigation. If police believe that a suspect has been identified and that there is sufficient evidence that the suspect has committed a crime (a finding known as "probable cause"), the suspect may be arrested immediately.

Follow-up Investigation

If suspects are not arrested at the scene, the patrol officer's incident report may be channeled to detectives within the law enforcement agency for further investigation. Detectives may contact witnesses for formal statements, may obtain additional physical evidence as well as descriptions of suspects or stolen property. Once their investigation is complete, law enforcement officers may either arrest a suspect if they believe there is sufficient probable cause, or submit their findings to the County Attorney's Office for review by a prosecutor.

Formal Charging Procedure

If the prosecutor believes that the law enforcement agency's report does not provide sufficient evidence to justify filing of criminal charges, he or she may return the report to the submitting agency for more investigation (or "further" the report), decline to prosecute ("not file"), or refer the case to a prosecutorial agency in another jurisdiction for review.

If the prosecutor believes the report provides sufficient evidence to indicate that the alleged offender has committed a crime and that the case has a reasonable likelihood of a conviction at a trial, the prosecutor will file a **direct complaint** and/or seek a **Grand Jury indictment**. Both of these methods constitute a formal filing of criminal charges.

- **Direct Complaint**

A direct complaint is a document prepared by the prosecutor which specifies the felony offense(s) the defendant is alleged to have committed. A judge reviews each complaint to determine if there is enough evidence to sign it and issue a summons ordering the alleged offender to appear at a **preliminary hearing** to be formally notified of the charges that have been filed. The judge may also issue an arrest war- rant if there is reason to believe the offender will not voluntarily appear in court at the scheduled time.

- **Grand Jury Indictment**

In addition to – and sometimes in lieu of – filing a direct complaint, a prosecutor may formally charge a suspect by presenting evidence to a Grand Jury comprised of at least nine citizens selected at random. If the Grand Jury determines that there is sufficient evidence that a suspect committed a crime and should be tried on specific charges, the jurors will formalize these findings by issuing an indictment (sometimes referred to as a "true bill"). The Grand Jury may also issue an indictment alleging charges other than those recommended by the prosecutor, or determine that there is insufficient evidence to support any charges at all. If the Grand Jury delivers an indictment, a judge may issue either a summons ordering the defendant to appear in court or an arrest warrant authorizing law enforcement agencies to arrest the defendant.

Initial Appearance

When a suspect is arrested either at the scene of the crime or as a result of an arrest warrant, he or she is taken to jail and "booked," or registered in the criminal justice system as having committed a specific offense. Within twenty-four hours of the booking, the defendant must be taken before a Judge or Commissioner for an **Initial Appearance (IA).** Suspects who receive a Grand Jury summons are also ordered to attend an initial appearance. An IA is the first time the suspect, now referred to as a defendant, appears before a Judge or Commissioner. At the IA, four events take place:

- The defendant is informed of the felony allegations.
- The defendant is advised of the right to an attorney. If the court finds the person cannot afford an attorney, a public defender will be appointed.
- Conditions of the defendant's release are established. Defendant accused of less serious or non-violent crimes, or who have sufficient community ties, are released at this time on their own recognizance (OR), a personal promise to return to court when required. Defendants accused of serious offenses, or who have criminal records or a history of not returning to court as required, are either held in jail or released after posting a cash bond.
- A date is set for a **status conference** and **preliminary hearing**.

Defendants who are held in custody without bond may be released after 48 hours if the County Attorney has not filed charges in a **direct complaint**.

Status Conference

A status conference provides the first opportunity for the defendant and prosecutor to resolve a case be- fore proceeding to trial. The State will attempt to negotiate a plea agreement with a defendant's attorney which may include a reduction (or "deviation") of the sentence normally imposed for the alleged offense. If the parties agree, the case is set for sentencing. If no agreement is reached, the case proceeds to the scheduled preliminary hearing. Both the status conference and the preliminary hearing are cancelled, or "vacated," if the County Attorney's Office files formal charges against the defendant by obtaining a **Grand Jury indictment**.

Preliminary Hearing

When felony charges are filed by a direct complaint, a preliminary hearing is held to determine whether the defendant should face trial on the charges alleged in the complaint. At the hearing, the prosecutor presents a Judge with evidence that would lead a reasonable person to conclude that the accused individual has committed the crime, a finding known as "probable cause." The Judge can either find probable cause and order the defendant to stand trial, or dismiss the case based on a lack of probable cause. In some instances, a prosecutor will secure a Grand Jury indictment prior to the preliminary hearing. When this happens, the Grand Jury makes a finding of probable cause and the preliminary hearing is vacated.

Arraignment

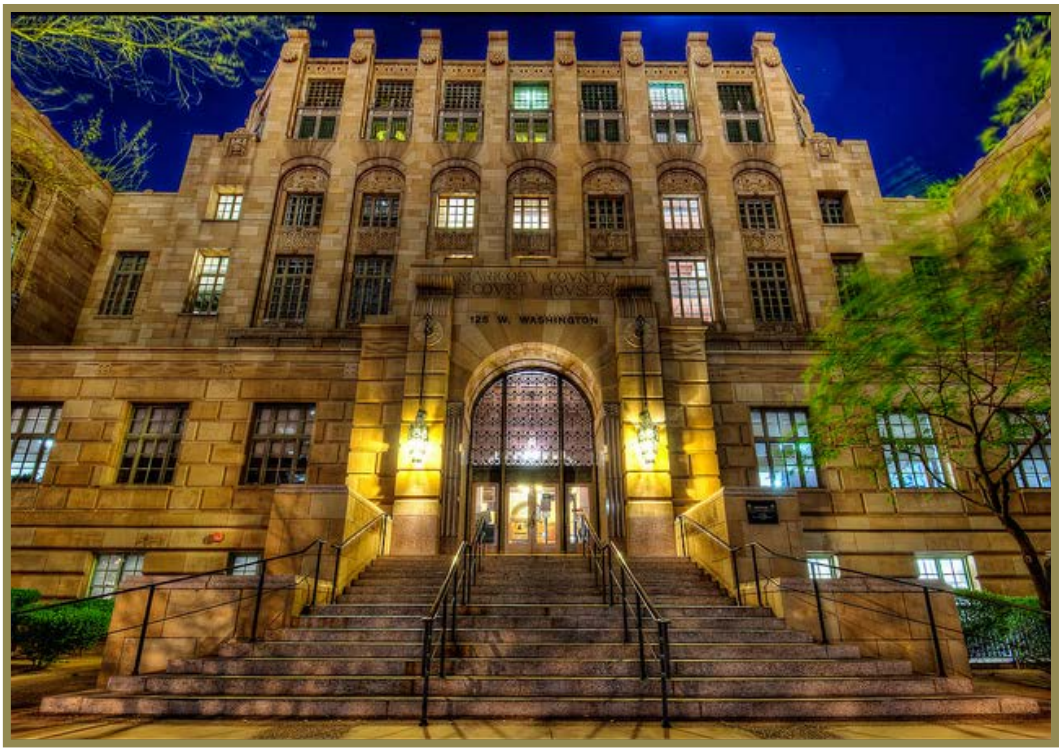
An arraignment is held within ten days after the filing of an indictment or direct complaint, unless the defendant has not been arrested or has negotiated a plea agreement at the status conference. The arraignment hearing serves several purposes:

- The defendant is informed of the exact charge(s) against him/her.
- The defendant is advised that he/she should have an attorney and if he/she cannot afford an attorney, one will be provided at public expense.
- The defendant is asked to enter a plea to the charge(s). A pretrial conference and a trial date are set.

Defendants are entitled to a speedy trial (Rule 8; Arizona Rules of Criminal Procedure). If the defendant remains in custody, a trial date must be set within 120 days from the initial appearance. Defendants released from custody on bail or on their own recognizance (OR) must receive a trial date within150 days from initial appearance. In extraordinary circumstances, the trial may occur later than these time frames.

If the defendant intends to contest the charges presented at the preliminary hearing, the arraignment is known as a **not guilty arraignment**. If a defendant intends to plead guilty, the preliminary hearing is waived and a **guilty arraignment** is scheduled in Superior Court. The defendant can either plead "straight to the charges," or enter into a **plea agreement**. Upon accepting the plea, the Court will set a date for sentencing.

If a defendant who is not being held in custody fails to appear at any court hearing, the Court can issue a bench warrant for the defendant's arrest.



Regional Court Centers (RCC) for Felony Processing

There are two Regional Court Centers in Maricopa County where preliminary hearings and arraignments are consolidated into one event at one location to expedite the criminal justice process primarily for lower level offenses. Preliminary hearings at an RCC require the attendance of the prosecutor, the defendant, the defense attorney, and the prosecutor's witnesses. The victim is given notice of this hearing and may also be required to attend. The defendant may demand a hearing, waive the hearing, or accept a plea offer from the prosecutor. A plea offer

is an agreement between the prosecutor and the defendant in which the defendant agrees to plead guilty or no contest in order to avoid a trial. The prosecutor must make diligent efforts to confer with the victim about any plea offer made to the defendant. In some less serious cases, sentencing will also be set at the RCC.

Early Disposition Court (EDC)

Previously known as Expedited Drug Court, EDC is designed to handle most first and second-time drug offenses and prevent a backlog of these relatively minor cases by resolving them as quickly as possible. Eligible cases are identified at the IA and set for a preliminary hearing within 10 days. The plea and the sentencing are combined at these hearings and many defendants are ordered to participate in substance abuse treatment programs in lieu of prosecution.

Pretrial Actions/Hearings

After the arraignment and before a trial, there are many activities performed in preparation for trial.

Initial Pretrial Conference

Following arraignment, defendants who plead not guilty are scheduled for an initial pretrial conference (IPTC). Here defendants have a hearing before a Commissioner to narrow the issues in controversy sur- rounding the case and perhaps settle it prior to the trial date. An IPTC is usually held within 45 days after an arraignment.

Discovery

According to the Arizona Rules of Criminal Procedure, the prosecution and defense must disclose the information each side intends to present at trial, including physical evidence, police reports and a list of witnesses. This process, known as discovery, is reviewed in one or more pretrial status conferences before the Judge. The rules of discovery also allow attorneys to interview prospective witnesses.

Settlement Conference

In some cases, the trial Judge assigned to a case will order the parties to meet with another Judge to discuss possible resolutions to a case short of trial. At the conference there is an exchange of views, and the Court will typically suggest ideas to attempt a resolution. The victim has a right to be present and express his/her views whenever the defendant is present. The trial Judge can only participate in such discussions with the consent of both parties.

Final Trial Management Conferences

A final trial management conference (FTMC) is typically held seven days before the scheduled trial date to discuss the trial schedule and address any remaining issues in the case before going to trial. All cases are scheduled for a FTMC prior to ordering a jury.

Rule 11 Hearing and Evaluation

If at any point a prosecutor, Judge or defense attorney thinks that a defendant may not be competent to stand trial because he/she cannot understand or assist in his/her defense, they may request that the Court order a psychiatric evaluation of the defendant known as a Rule 11 evaluation. Typically the Rule 11 process takes at least one month after which a hearing is scheduled for the Judge to review evidence from mental health specialists and decide if the defendant is or is not competent to stand trial. If the Judge determines that the defendant is competent, the case proceeds through the criminal justice process. If the defendant is found to be incompetent, the Judge will order a second evaluation to determine if the defendant can be restored to competency with mental health treatment. If the judge finds that the defendant can be restored to competency, the criminal case is placed on hold while the defendant participates in mental health treatment. Once the defendant is determined to be competent to assist in his or her defense, the prosecution resumes. If a Judge determines that the defendant is incompetent and not restorable in the near future, the criminal case must be dismissed and the Judge may order that the defendant be involuntarily committed to the Arizona State Hospital for mental health treatment. Even if the defendant has been determined to

be competent, he or she is still allowed to raise an insanity defense at trial.

Plea Negotiation/Agreement

In any of these hearings, the defendant may change his/her mind and decide to plead guilty to the original charges, or agree to reduced charges. In negotiating a plea agreement with the Deputy County Attorney prosecuting the case, the defense attorney may seek a dismissal of certain charges, a commitment from the Deputy County Attorney not to file additional charges or an agreement to recommend a particular sentence. The Deputy County Attorney will make diligent efforts to confer with the victim concerning any plea agreement.

If an agreement is reached, the attorneys and the defendant appear before a Judge for a **Change of Plea Hearing**. The defendant enters a plea of guilty as agreed, and signs a form declaring that he/she is knowingly giving up various rights, including the right to a trial and the right to cross-examine witnesses. Victims have the right to be present at the hearing and to make a statement expressing their opinion about the plea agreement. The Judge can either reject the plea agreement and set the case for trial, or accept the plea, enter a finding of guilt against the defendant and proceed to sentencing.

Trial

If a plea agreement is not reached, the case goes to trial. All parties to the case, including prosecution witnesses and defense witnesses, will be subpoenaed (summoned) in advance to testify. Victims have the right to be present throughout the trial.

Once a jury is selected and sworn, the prosecution and the defense make opening statements to the jury to explain the case. The Deputy County Attorney (the State) then presents the case against the defendant. It is the responsibility of the State to prove "beyond a reasonable doubt" that a crime was committed and the defendant is guilty of committing that crime. To meet this burden of proof, the Deputy County Attorney presents evidence and calls witnesses to testify. Witnesses are required to testify under oath and may be cross-examined by the defense attorney. Witnesses are excluded from the courtroom until they are finished testifying. The reason for this rule is to ensure that a witness is not influenced by the testimony of another witness.

After the prosecutor presents the case against the defendant, the defense has an opportunity to present its evidence. On advice of counsel, the defendant may or may not testify on his/her behalf. As in the case with the prosecution witnesses, defense witnesses are subject to cross-examination by the prosecutor.

Following the defense's case, rebuttal witnesses may be called by the prosecutor to discredit statements and facts presented by the defense. At the end of the trial, attorneys for the prosecution and defense make their final arguments to the Judge or the jury. The Judge instructs the jury on how the law applies to the case and about the duty of the jury.

The jury must agree unanimously in order to find the defendant guilty or not guilty. If the jury returns a "not guilty" verdict, this means that, in the jury's opinion, the State failed to prove the case beyond a reason- able doubt and the defendant is released. The State cannot appeal the jury's verdict and the matter cannot be retried. If the jury returns a verdict of "guilty," the Judge sets a sentencing date. If the jury is unable to reach a unanimous verdict, it is declared "hung" by the Judge and the State may then request that the case be retried within sixty days.

Sentencing

If the defendant pleads guilty, or if the defendant is found guilty, the Judge will set a date for the defendant to be sentenced. In felony cases, sentencing will generally be held about 30 days after the change of plea or guilty verdict. Prior to sentencing, the court will request a **Pre-Sentence Report** on the defendant from the Maricopa

County Probation Department (only for felony cases).

The Pre-Sentence Report discusses the circumstances of the offenses, the defendant's life and criminal history and recommends a specific sentence. The Probation Officer will contact the victim(s) who may also submit a written statement to the Judge through the Probation Officer. This statement may contain the victim's request for payment of monetary losses suffered by the victim (restitution). In some situations, when either the Deputy County Attorney or the defense attorney has strong feelings about the recommended sentence, testimony especially relevant to the sentence may be heard at a special sentencing hearing. Victims are allowed to make a statement to the Judge at the time of the sentencing.

Restitution

Arizona law requires the Judge to order the defendant to pay restitution if the victim has suffered a monetary loss directly related to the crime. Restitution is not available to compensate for pain and suffering in criminal cases. Restitution will be ordered regardless of whether the defendant is placed on probation or sentenced to the Arizona Department of Corrections. Restitution payments are paid to the Clerk of the Court, who then mails the payments to the victim.

Sentencing Options

- **Probation**

If the defendant is placed on probation, he or she will be under many restrictions of conduct and travel. If a defendant violates the terms of probation, additional restrictions may be imposed or the defendant may be sentenced to serve a term in the Arizona Department of Corrections. Any inappropriate action by a defendant placed on probation, including unauthorized contact with victims and witnesses should be reported to the Maricopa County Adult Probation Office.

- **Prison/Community Supervision**

Under Arizona's "truth in sentencing" laws, enacted in 1994, convicted defendants must serve at least 85% of any prison sentence imposed, unless the defendant is convicted of an offense which prohibits early release. At the time of sentence, the Judge will also order the defendant to serve a term of community supervision following the prison term. The term of community supervision will be equal to 15% of the total prison term. During the time the offender is being supervised in the community, the offender will report to a community supervision officer and must abide by certain restrictions on his/her activities. If the offender violates the terms of the community supervision, he/she may be ordered by the Judge to serve the remainder of the term of community supervision in prison.

- **Prison/Parole**

In certain rare cases involving crimes that occurred prior to January 1, 1994, the Judge must sentence the offender to a sentence that was the law at the time the offense occurred. If a defendant is convicted of a crime committed in 1993 or earlier and the Judge sentences the offender to be imprisoned in the Department of Corrections, he/she may become eligible for parole unless the crime requires the defendant to serve "flat time" or every day of the sentence. The Arizona Board of Executive Clemency, a separate agency from the Arizona Department of Corrections, is the agency that determines if the inmate is to be released from prison on parole. If the defendant is released from prison on parole, the Arizona Department of Corrections, Parole Division, is responsible for supervising the defendant.

- **Appeals/Post-Conviction Relief (PCR)**

After sentencing the two main avenues for a defendant to challenge the prosecution, conviction and sentence are **appeals** and petitions for **post-conviction relief (PCR)**.

An appeal is a formal request from the defendant and/or the defendant's attorney asking for an appellate court to review the case to determine if all of the defendant's rights were observed and that the procedures and laws were followed. Depending on the type of appeal, either the Maricopa County Attorney's Office or the Arizona Attorney

General's Office will handle it on behalf of the State. Cases on appeal are reviewed in writing. In some cases, oral arguments are heard by the Court. The testimony of the victims and witnesses is not allowed.

Any person who has been convicted of or sentenced for a criminal offense may file a PCR if they believe the conviction or sentence was in violation of the U.S. or Arizona Constitution; the Court was without jurisdiction to render judgment or impose sentence; the sentence imposed exceeded the maximum allowed by law; the person is being held in custody after the sentence imposed has expired; newly discovered material facts exist that may have changed the outcome; or if there has been a significant change in the law that applies to the defendant. A PCR must be filed within 90 days after the judgment and sentence or within 30 days after the issuance of a direct appeal.

SERVING VICTIMS

The Maricopa County Attorney's Office is firmly committed to honoring and respecting the rights of crime victims as detailed in Section 2.1 of the Arizona State Constitution, also known as the Victims' Bill of Rights. We offer a variety of services to ensure that these rights are upheld, including:

- **Victim Notification** – Crime victims are entitled, upon request, to receive notice of certain proceedings related to the defendant who committed the crime.
- **Victim Restitution** – If you suffered a financial loss as a result of a crime, the defendant can be ordered to reimburse you as part of the sentence imposed by the Court.
- **Victim Compensation** – Crime victims may be eligible to receive funds administered by Arizona's Crime Victim Compensation Program to cover out-of-pocket expenses related to a crime.

Arizona law also guarantees victims' rights for businesses and neighborhood associations.

THE VICTIM SERVICES DIVISION ALSO OFFERS:

VICTIM ADVOCATES
Highly trained and experienced professionals who assist victims and families involved in cases that are currently in the criminal justice system. In addition to providing important emotional support, victim advocates assist with social service needs, serve as a liaison with the prosecutor handling the case and provide case related information/updates or criminal justice related information.

CHILD ADVOCACY BUREAU
Specially trained victim advocates and resources dedicated to addressing the unique needs of children who are victims of crimes.

KIDS IN COURT
A support program to help children and their parents or guardians prepare for court and cope with the anxiety associated with a criminal trial proceeding.

SERVICES FOR PUBLIC SAFETY EMPLOYEES
Specialized resources to ensure public safety employees and their families receive the same rights as other crime victims.

K-9 VICTIM SUPPORT PROGRAM
A level-III certified service dog specially trained to provide one-of-a-kind care and comfort to child and adult victims before, during and after trial. Meet Sam, the Victim Support Dog.

VICTIMS' BILL OF RIGHTS

Arizona State Constitution: Article 2, Section 2.1

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

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

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

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

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

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

ARIZONA RULE OF CRIMINAL PROCEDURE RULE 39

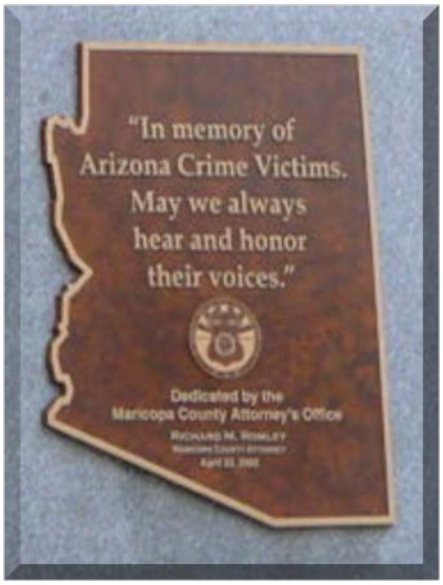
a. Definitions.

1. *Victim.* As used in this rule, a "victim" is defined in accordance with the definition provided in the Arizona Revised Statutes. With regard to the rights to be notified and to be heard pursuant to this rule, a person ceases to be a victim upon the acquittal of the defendant or upon the dismissal of the charges against the defendant as a final disposition. If a victim is in custody for an offense, the victim's right to be heard pursuant to this rule is satisfied through affording the victim the opportunity to submit a written statement, where legally permissible and in the discretion of the court. A victim not in custody may

exercise his or her right to be heard pursuant to this rule by appearing personally, or where legally permissible and in the discretion of the court, by submitting a written statement, an audiotape or videotape. The victims' rights of any corporation, partnership, association, or other similar legal entity shall be limited as provided by statute.

2. *Criminal Proceeding.* As used in this rule, a "criminal proceeding" is defined as a trial, hearing, (including hearing before trial), oral argument, or other matter scheduled and held before a trial court at which the defendant has the right to be present, or any post-conviction proceeding.

b. Victims' Rights. These rules shall be construed to preserve and protect a victim's rights to justice and due process. Notwithstanding the provisions of any other rule in these Rules of Criminal Procedure, a victim shall have and be entitled to assert each of the following rights:



1. The right to be treated with fairness, respect and dignity, and to be free from intimidation, harassment, or abuse, throughout the criminal justice process.
2. The right to be provided with written notice regarding those rights available to the victim under this rule and under any other provision of law.
3. Upon request, the right to be given reasonable notice of the date, time and place of any criminal proceeding.
4. The right to be present at all criminal proceedings.
5. The right to be notified of any escape of the defendant.
6. Upon request, the right to be informed of any release or proposed release of the defendant, whether that release be before expiration of the sentence or by expiration of the sentence, and whether it be permanent or temporary in nature.
7. Upon request, the right to confer with the prosecution, prior to trial when applicable, in connection with any decision involving the preconviction release of the defendant, a plea bargain, a decision not to proceed with a criminal prosecution, dismissal of charges, plea or sentence negotiation, a pretrial diversion program, or other disposition prior to trial; the rights to be heard at any such proceeding and at sentencing.
8. The right to be accompanied at any interview, deposition, or judicial proceeding by a parent or other relative, except persons whose testimony is required in the case. If the court finds, under this subsection 8 or subsection 9 below, that a party's claim that a person is a prospective witness is not made in good faith, it may impose any sanction it finds just, including holding counsel in contempt.
9. The right to name an appropriate support person, including a victim's caseworker, to accompany the victim at any interview, deposition, or court proceeding, except where such support person's testimony is required in the case.
10. The right to require the prosecutor to withhold, during discovery and other proceedings, the home address and telephone number of the victim, the address and telephone number of the victim's place of employment, and the name of the victim's employer, providing, however, that for good cause shown by the defendant, the court may order that such information be disclosed to defense counsel and may impose such further restrictions as are appropriate, including a provision that the information shall not be disclosed by counsel to any person other than counsel's staff and designated investigator and shall not be conveyed to the defendant.
11. The right to refuse an interview, deposition, or other discovery request by the defendant, the defendant's attorney, or other person acting on behalf of the defendant. After charges are filed, defense initiated requests to interview the victim shall be communicated to the victim through the prosecutor. The victim's

response to such requests shall also be communicated through the prosecutor. If there is any comment or evidence at trial regarding the victim's refusal to be interviewed, the court shall instruct the jury that the victim has the right to refuse an interview under the Arizona Constitution. For purposes of a pretrial interview, a peace officer shall not be considered a victim if the act that would have made him or her a victim occurs while the peace officer is acting in the scope of his or her official duties.

12. At any interview or deposition to be conducted by defense counsel, the right to condition the interview or deposition on any of the following:
    a. Specification of a reasonable date, time, duration, and location of the interview or deposition, including a requirement that the interview or deposition be held at the victim's home, at the prosecutor's office, or in an appropriate location in the courthouse.
    b. The right to terminate the interview or deposition if it is not conducted in a dignified and professional matter.
13. The right to a copy of any pre-sentence report provided the defendant except those parts excised by the court or made confidential by the law.
14. The right to be informed of the disposition of the case.
15. The right to a speedy trial or disposition and prompt and final conclusion of the case after conviction and sentence.
16. The right to be informed of a victim's right to restitution upon conviction of the defendant, of the items of loss included thereunder, and of the procedures for invoking the right.

c. Assistance and Representation.

1. The victim shall also have the right to the assistance of the prosecutor in the assertion of the rights enumerated in this rule or otherwise provided for by law. The prosecutor shall have the responsibility to inform the victim, as defined by these rules, of the rights provided by these rules and by law, and to provide the victim with notices and information which the victim is entitled by these rules and by law to receive from the prosecutor.
2. The prosecutor shall have standing in any judicial proceeding, upon the victim's request, to assert any of the rights to which the victim is entitled by this rule or by any other provision of law.
3. In any event of any conflict of interest between the state or any other prosecutorial entity and the wishes of the victim, the prosecutor shall have the responsibility to direct the victim to the appropriate legal referral, legal assistance, or legal aid agency.
4. In asserting any of the rights enumerated in this rule or provided for in any other provision of the law, the victim shall also have the right to engage and be represented by personal counsel of his or her choice.

d. Victims Duty to Implement Rights. Any victim desiring to claim the notification rights and privileges provided by this rule must provide his or her full name, address and telephone number to the entity prosecuting the case and to any other entity from which notice is requested by the victim. If the victim is a corporation, partnership, association or other legal entity and has requested notice of the hearings to which it is entitled by law, that legal entity shall promptly designate a representative by giving notice thereof, including such representative's address and telephone number, to the prosecutor and to any other entity from which notice is requested by the victim. Upon receipt of such notice, the prosecutor shall notify the defendant and the court thereof. Thereafter, only such a designated representative shall be entitled to assert a claim to victims' rights on behalf of that legal entity. Any change in designation must be provided in writing to the prosecutor and to any other entity from which notice is requested by the victim.

e. Waiver. The rights and privileges enumerated in this rule may be waived by any victim. Failure to keep the address and telephone number current or to designate such representative of a legal entity shall be considered as a waiver of notification rights under this rule.

f. Court Enforcement of Victim Notice Requirements

1. At the commencement of any proceeding which takes place more than seven days after the filing of charges by the prosecutor and at which the victim has a right to be heard, the court shall inquire of the prosecutor or otherwise ascertain whether the victim has requested notice and been notified of the proceeding.
2. If the victim has been notified as requested, the court shall further inquire of the prosecutor whether the victim is present. If the victim is present and the prosecutor advises the court that the victim wishes to be addressed by the court, the court shall inquire whether the victim has been advised by the prosecutor of the rights conferred by this rule. If the victim has not been so advised, the court shall recess the hearing and the prosecutor shall immediately comply with subsection (c)(1) of this rule. The court shall also provide the victim with a written list of the victims' rights enumerated in subsection (b) of this rule.
3. If the victim has not been notified as requested, the court should not proceed unless public policy, the specific provisions of a statute, or the interests of due process otherwise require. In the absence of such considerations the court shall have discretion to reconsider any ruling made at a proceeding of which the victim did not receive notice as requested.

g. Appointment of Victim's Representative. Upon request, the court shall appoint a representative for a minor victim or a representative for an incapacitated victim, as provided by ARS § 13-4403. Notice of appointment of such representative shall be given by the court to the parties.

SELECTION FROM ARIZONA REVISED STATUTES TITLE 13, CHAPTER 40 CRIME VICTIMS' RIGHTS

A.R.S. § 13-4438. STATEMENT OF RIGHTS

In order to assure that any victim who comes before the court has been advised of the victim's constitutional rights, the following statement shall be prominently posted in each superior, justice of the peace and municipal court in this state and shall be read out loud by a judge of the superior court at the daily commencement of the regular criminal docket at which accused persons are arraigned, appear for a status conference, make a change of plea or are sentenced:

If you are the victim of a crime with a case pending before this court, you are advised that you have rights to justice and due process under Arizona law that, among others, include the right to be treated with fairness, respect and dignity, to a speedy trial and a prompt and final conclusion of the case, to be present at court proceedings, to choose whether or not to be interviewed by the defendant or the defendant's attorney, to be heard before the court makes a decision on release, negotiation of a plea, scheduling and sentencing and to receive restitution from a person who is convicted of causing your loss. If you have not already been provided with a written statement of all victims' rights, please contact the victim services division of the prosecutor's office.

VICTIM ADVOCATES

The minimum requirements to be hired as a victim advocate with the Maricopa County Attorney's Office are that the applicant hold a Bachelor's Degree as well as possess two years of experience in a social service field. Many candidates possess greater than the two years or have experience that directly relates to the criminal justice or victim service fields. Once hired, advocates are placed within bureaus according to their strengths and experience. There are two bureaus that handle sex crimes. The first, handles all adult sex crimes and the second handles all child related sex crimes. Upon placement in one of these bureaus, the

advocate receives caseload specific training from their bureau chief to include information on available community resources, sentencing structures of sex crimes cases and current trends. They spend time shadowing other advocates handling sex crimes in order to learn how best to interact with and assist survivors. The advocates are also able to attend local and national trainings in the field including Sexual Assault Conferences and Crimes Against Children Conferences. They further develop their skills by attending relevant webinars hosted by nationally recognized organizations.

SEX CRIMES DEFINITIONS AND PUNISHMENTS

A.R.S. § 13-1406. SEXUAL ASSAULT

A. A person commits sexual assault by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of such person.

B. Sexual assault is a class 2 felony, and the person convicted shall be sentenced pursuant to this section and the person is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by § 31-233, subsection A or B until the sentence imposed by the court has been served or commuted. If the victim is under fifteen years of age, sexual assault is punishable pursuant to § 13-705. The presumptive term may be aggravated or mitigated within the range under this section pursuant to § 13-701, subsections C, D and E. If the sexual assault involved the intentional or knowing administration of flunitrazepam, gamma hydroxy butyrate or ketamine hydrochloride without the victim's knowledge, the presumptive, minimum and maximum sentence for the offense shall be increased by three years. The additional sentence imposed pursuant to this subsection is in addition to any enhanced sentence that may be applicable.

C. The sentence imposed on a person for a sexual assault shall be consecutive to any other sexual assault sentence imposed on the person at any time.

D. [I]f the sexual assault involved the intentional or knowing infliction of serious physical injury, the person may be sentenced to life imprisonment and is not eligible for suspension of sentence, probation, pardon or release from confinement on any basis except as specifically authorized by § 31-233, subsection A or B until at least twenty-five years have been served or the sentence is commuted. If the person was at least eighteen years of age and the victim was twelve years of age or younger, the person shall be sentenced pursuant to § 13-705.

SEXUAL ASSAULT §13-1406									
Class	Category One			Category Two			Category Three		
	MIN	P	MAX	MIN	P	MAX	MIN	P	MAX
2	5.25	7	14	7	10.5	21	14	15.75	28

Category One offenders are those who are convicted of their first felony offense. Category Two offenders are those who have one historical prior felony conviction. Category Three offenders are those who have two or more historical prior felony convictions.

§ 13-1404. SEXUAL ABUSE

A. A person commits sexual abuse by intentionally or knowingly engaging in sexual contact with any person who is fifteen or more years of age without consent of that person or with any person who is under fifteen years of age if the sexual contact involves only the female breast.

B. Sexual abuse is a class 5 felony unless the victim is under fifteen years of age in which case sexual abuse is a class 3 felony punishable pursuant to § 13-705.

SEXUAL ABUSE §13-1404									
Class	Category One			Category Two			Category Three		
	MIN	P	MAX	MIN	P	MAX	MIN	P	MAX
3	2.5	5	7.5	8	15	22		N/A	
5	0.75	1.5	2	1.5	2.25	3	4	5	6

Class 3 is from 13-705(F), Dangerous Crimes Against Children Sentencing
Class 5 is from 13-702, First Time Felony Offenders Sentencing; and 13-703, Repetitive Offenders Sentencing

Probation Eligible if Not a Repetitive Offender

Category One offenders who are probation eligible are those who are convicted of their first felony offense. A.R.S. § 13-702. Category One repetitive offenders are not probation eligible and are those who have one prior felony conviction. A.R.S. §§ 13-703(A), (H). Category Two offenders are those who have two prior felony convictions. A.R.S. §§ 13-703(B), (I). Category Three offenders are those who have three or more prior felony convictions. A.R.S. §§ 13-703(C), (J).

§ 13-1401. DEFINITIONS

1. "Oral sexual contact" means oral contact with the penis, vulva or anus.

2. "Sexual contact" means any direct or indirect touching, fondling or manipulating of any part of the genitals, anus or female breast by any part of the body or by any object or causing a person to engage in such contact.

3. "Sexual intercourse" means penetration into the penis, vulva or anus by any part of the body or by any object or masturbatory contact with the penis or vulva.

4. "Spouse" means a person who is legally married and cohabiting.

5. "Without consent" includes any of the following:

(a) The victim is coerced by the immediate use or threatened use of force against a person or property.

(b) The victim is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep or any other similar impairment of cognition and such condition is known or should have reasonably been known to the defendant. For purposes of this subdivision, "mental defect" means the victim is unable to comprehend the distinctively sexual nature of the conduct or is incapable of understanding or exercising the right to refuse to engage in the conduct with another.

(c) The victim is intentionally deceived as to the nature of the act.

(d) The victim is intentionally deceived to erroneously believe that the person is the victim's spouse.

§ 13-1407. Defenses

B. It is a defense to a prosecution pursuant to §§ 13-1404 and 13-1405 in which the victim's lack of consent is based on incapacity to consent because the victim was fifteen, sixteen or seventeen years of age if at the time the defendant engaged in the conduct constituting the offense the defendant did not know and could not reasonably have known the age of the victim.

D. It is a defense to a prosecution pursuant to § 13-1404 or 13-1405 that the person was the spouse of the other person at the time of commission of the act. It is not a defense to a prosecution pursuant to § 13-1406 that the defendant was the spouse of the victim at the time of commission of the act.

E. It is a defense to a prosecution pursuant to § 13-1404 or 13-1410 that the defendant was not motivated by a sexual interest. It is a defense to a prosecution pursuant to § 13-1404 involving a victim under fifteen years of age that the defendant was not motivated by a sexual interest.

F. It is a defense to a prosecution pursuant to §§ 13-1405 and 13-3560 if the victim is fifteen, sixteen or seventeen years of age, the defendant is under nineteen years of age or attending high school and is no more than twenty-four months older than the victim and the conduct is consensual.

§ 13-1423. VIOLENT SEXUAL ASSAULT

A. A person is guilty of violent sexual assault if in the course of committing an offense under § 13-1404, 13-1405, 13-1406 or 13-1410 the offense involved the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument or involved the intentional or knowing infliction of serious physical injury and the person has a historical prior felony conviction for a sexual offense under this chapter or any offense committed outside this state that if committed in this state would constitute a sexual offense under this chapter.

B. Notwithstanding § 13-703, § 13-704, § 13-705, § 13-706, subsection A and § 13-708, subsection D, a person who is guilty of a violent sexual assault ***shall be sentenced to life imprisonment and the court shall order that the person not be released on any basis for the remainder of the person's natural life***.

SELECTED SEX CRIMES STATISTICS

MCAO ADULT SEXUAL ASSAULT* FILINGS	
Year	Defendants Charged with Sexual Assault
2013	141
2012	195
2011	201
2010	247
2009	112
2008	95
2007	83
2006	100
2005	120
2004	85
2003	
2002	90
2001	94
2000	111
1999	88
1998	96

Source: County Attorney Information System (2005-2011); Federal Bureau of Investigations Uniform Crime Report (1998-2004)
*Sexual Assault is defined under A.R.S. § 13-1406: "intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of such person."

	FELONY FILINGS				FELONY DISPOSITIONS			
Offense	**2010**	**2011**	**2012**	**2013***	**2010**	**2011**	**2012**	**2013***
Sexual Abuse	138	130	124	78	218	200	169	128
Sexual Assault	247	201	195	141	136	121	84	59
Violent Sexual Assault	2	1	1	1	0	0	0	1

*Data through October 30, 2013

2010–2012 AVERAGE SENTENCES

- In **2010**, 8.3% of the **sexual abuse** dispositions resulted in a prison sentence. The average sentence was 51.7 months.
- In **2010**, 27.2% of the **sexual assault** dispositions resulted in a prison sentence. The average sentence was 109 months.

- In **2011**, 9% of the **sexual abuse** dispositions resulted in a prison sentence. The average sentence was 63 months.
- In **2011**, 13.2% of the **sexual assault** dispositions resulted in a prison sentence. The average sentence was 63 months.

- In **2012**, 7.7% of the **sexual abuse** dispositions resulted in a prison sentence. The average sentence was 49 months.
- In **2012**, 10.7% of the **sexual assault** dispositions resulted in a prison sentence. The average sentence was 120 months.

INFORMATION ON SEX CRIMES BUREAU				
Misc. Factoids	2010	2011	2012	2013**
Number of DCAs*	18	17	16	20
Cases Per DCA	61.4	77.9	91.1	71.4
Average Years Practicing in Sex Crimes Bureau				2.25 years
Average Years Practicing law in Arizona				7.86 years

*Deputy County Attorney
**Data through October 30, 2013

Individual Adult Victim Demographics Between 01/01/2013 and 10/30/2013*								
GENDER								
					Male	Female	Unknown	Total
					4335	4444	4570	13349
AGE								
18-25	26-29	30-40	41-45	45-60	61-65	65+	Unknown	Total
2314	1131	2661	858	2538	420	675	2752	13349
ETHNICITY								
		Asian	African	Caucasian	Hispanic	Native American	Unknown	Total
		78	675	4113	1945	139	6399	13349

*These are all victims who had an "action" occur during this time frame …. Meaning the case came into our office and the Advocate initiated an action on behalf of the victim, thereby triggering a tick mark on this sheet. So it is not all inclusive of all victims. It is any new victim during the time frame who receives services.