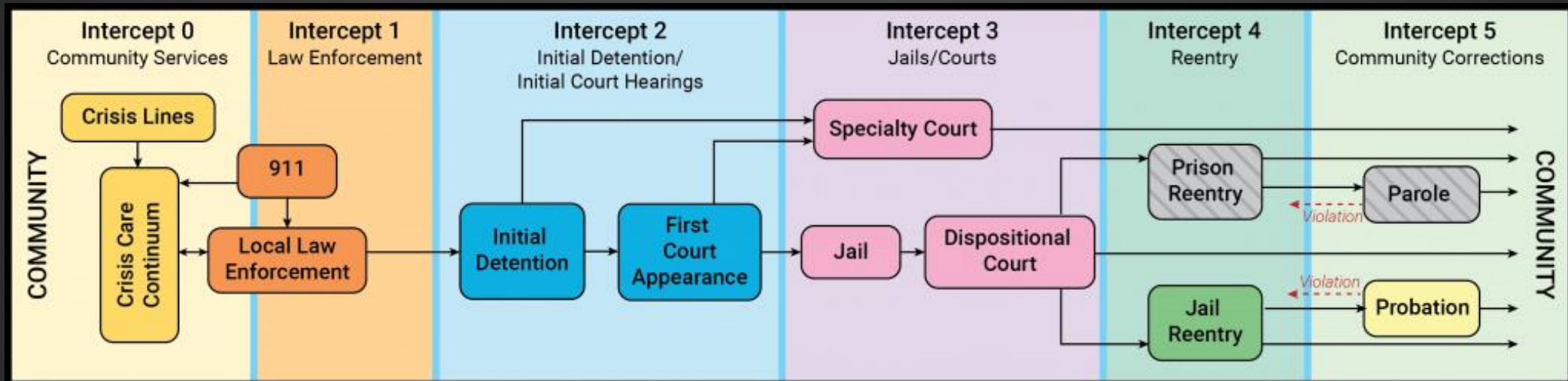




# Montana Criminal Justice System

Part 1: A Walk Through the Montana Criminal Justice System



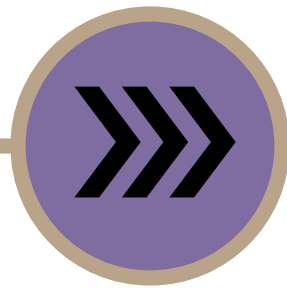
# Montana Criminal Justice System

## A Walk Through the Montana Criminal Justice System: Felony



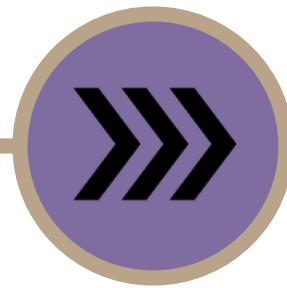
*Arrest*

Local law  
enforcement  
forwards report to  
County Attorney  
office



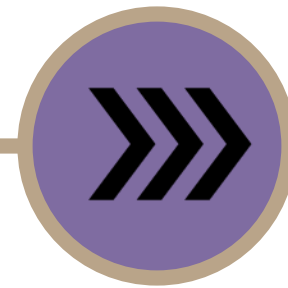
*Arraignment*

Trial or guilty plea.  
Charges can be  
dismissed, can  
include plea  
deal/bargain



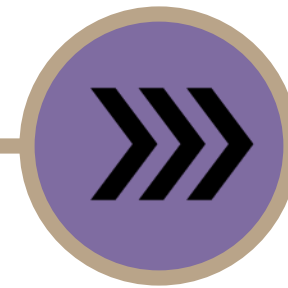
*Sentencing*

Appeal, Pre-  
Sentencing  
Investigation  
Report, Restitution



*Corrections*

Immediate  
sanctions,  
probation, prison,  
probation  
revocation

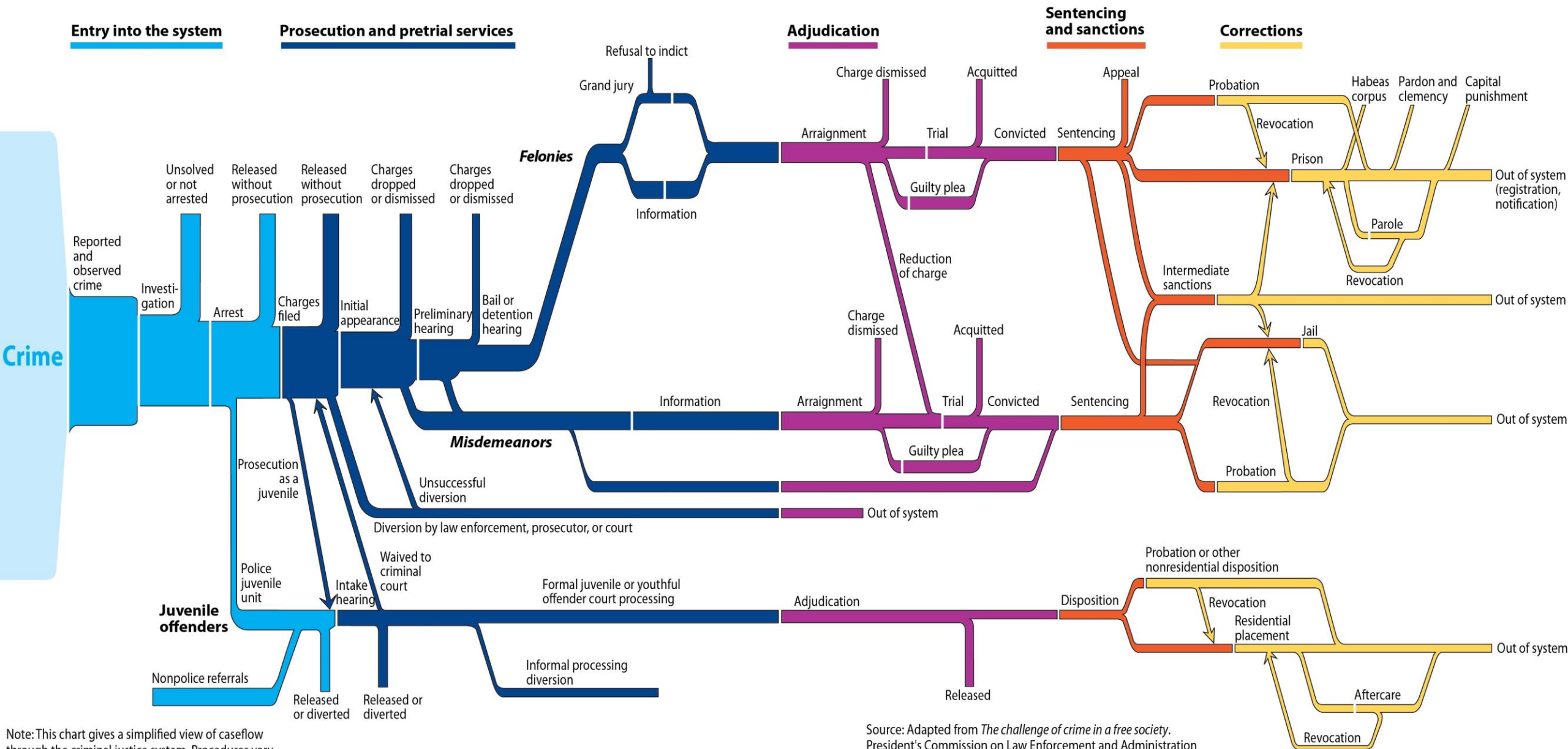


*Release*

Conditional  
Release, Parole  
Granted, Flat  
Discharge from  
sentence, CDFS

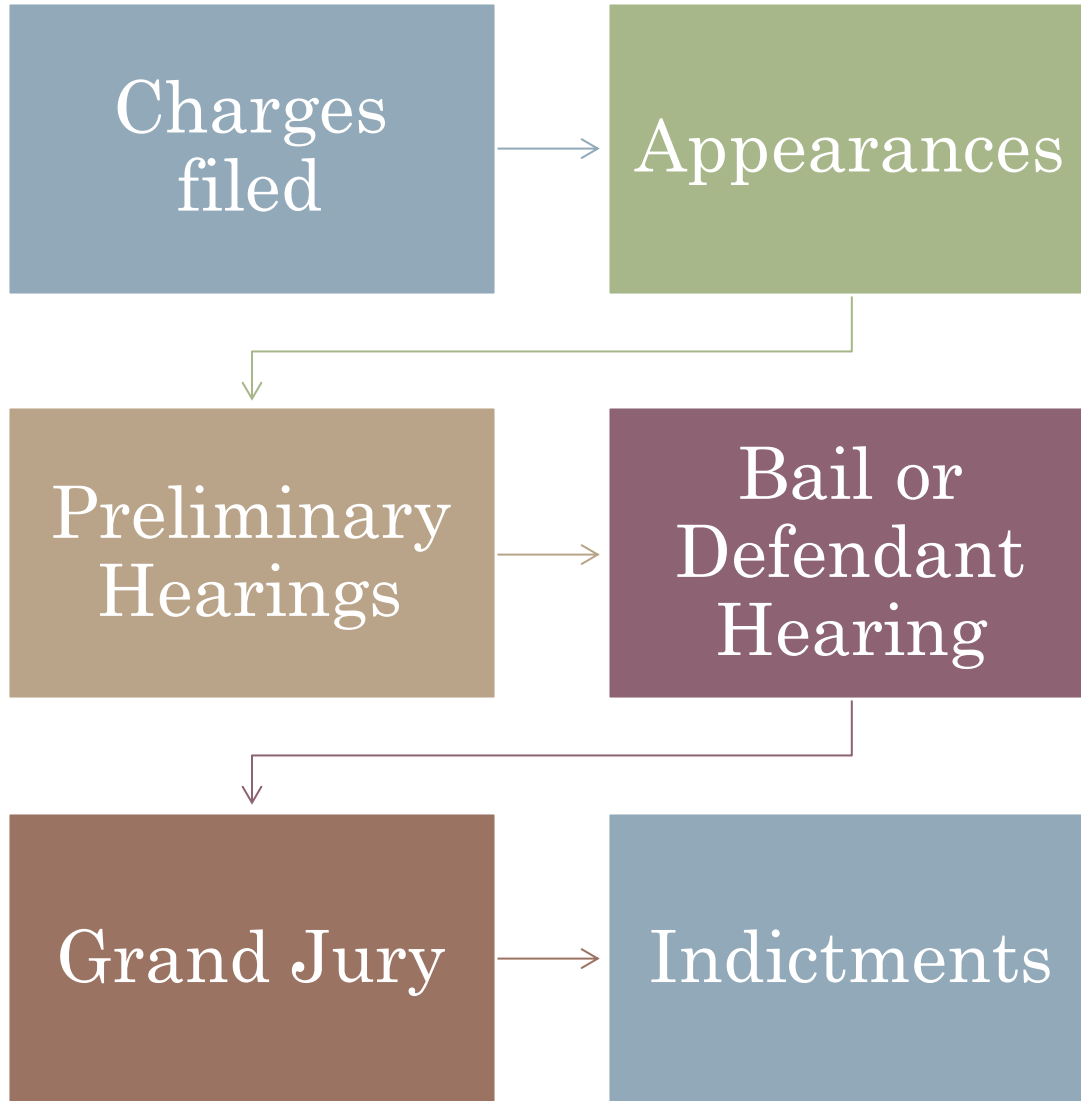


# What is the sequence of events in the criminal justice system?



Note: This chart gives a simplified view of caseload through the criminal justice system. Procedures vary among jurisdictions. The weights of the lines are not intended to show actual size of caseloads.

Source: Adapted from *The challenge of crime in a free society*. President's Commission on Law Enforcement and Administration of Justice, 1967. This revision, a result of the Symposium on the 30th Anniversary of the President's Commission, was prepared by the Bureau of Justice Statistics in 1997.



## Prosecution & Pretrial Services

# Appearances

- **How soon is the first court hearing after being arrested?**
  - The judge or Justice of the Peace will have a hearing the next day. If arrested on Friday night or the weekend, the judge will have a hearing on Monday.
- **Release on own recognizance (OR)**
  - Being released on OR means the Judge or Justice of the Peace releases the defendant from jail upon the promise to appear in court for all hearings and trial.
  - When this happens, the judge will also list conditions that must be followed, like obey all laws, report phone and address changes to the court, and no drugs, alcohol, bars, or casinos.

# Pretrial Services

- A program used by criminal justice systems across the United States to reduce the number of individuals sitting in jail while they wait up to three months for their trial date.
- Improves the rate of court appearances, and enhances overall public safety
- The [Laura and John Arnold Foundation](#)'s Public Safety Assessment (PSA) to determine the risk level of each person charged with a crime. The PSA is used by the judges when deciding if individuals should be released while awaiting trial or if they should wait in the jail.
- To get into the Pretrial Services Program, the Judge overseeing the defendant's case needs to order them to the program. Once in the Program, a Pretrial Officer will assist the defendant in connecting to necessary resources, help the defendant abide by court orders, and make sure they appear at all their scheduled court dates.



# Pretrial Services in Montana

- Rosebud County
- Gallatin County
- Richland County
- Lewis and Clark County
- Missoula County

# Adjudication



ARRAIGNMENT



TRIAL



GUILTY PLEA



CONVICTION

# Adjudication Process

## Arraignment

- The stage at which the defendant formally is told what the charges are and is given a copy of them. The defendant then enters a plea responding to those charges, which generally is not guilty or guilty

## Trial

- The proceeding during which the government and the defense present evidence to prove or disprove the charges. Ordinarily, a trial is held before a jury, but there are circumstances in which the case will be tried to the judge alone, which is known as a bench trial.
- A victim may be called to testify as a witness to the crime or to explain how the victim was harmed by the crime. Moreover, except in extraordinary circumstances, a victim cannot be excluded from the trial, even if the victim later will testify, which enables a victim to observe the in-court proceedings.

## Guilty Plea

- Plea bargain is an agreement that the defendant will plead guilty to the original or another charge in return for some concession from the prosecutor.
- If charges have been filed, a victim will have a reasonable opportunity to confer with the prosecutor before the plea bargain results in a formal guilty plea. Nonetheless, a victim does not have a right to veto the prosecutor's decision to engage in plea negotiations or to accept a guilty plea from a defendant as part of a plea bargain.
- If a plea agreement has been reached, the government and defense counsel present that agreement to the court. A victim may appear in court and make a statement regarding the plea agreement. If the court accepts the agreement, the court will set a date for sentencing and decide whether the defendant should be held in custody until then. The law does not require a federal court to accept a plea agreement. Rather, the court may accept the agreement, reject it, or discuss with the parties alternatives that are acceptable to the court. If the court rejects the plea agreement, the defendant may withdraw the guilty plea, and the case will proceed to trial.

## Conviction

- When the jury has reached its decision, the jury will return to the courtroom and announce its verdict.
- If there is no jury, the judge will deliberate and return a verdict.

# Pre-Sentence Investigation

- The probation officer will investigate any aggravating and mitigating factors present in the case and will prepare a pre-sentence report summarizing those factors for the judge.
- Most reports contain a variety of information that may be helpful to the court:
  - information about the offender's prior criminal record
  - personal characteristics
  - financial condition
  - social history
  - circumstances affecting his or her behavior
  - information regarding the effect of the crime on the victim
- The victim also will have an opportunity to prepare a victim impact statement—a statement describing, in the victim's own words, the effect of the crime on the victim. This is presented to the judge and made a part of the record at sentencing.
- The victim may also complete a pecuniary loss affidavit form and provide any documents the victim may have showing losses or expenses caused by the crime (e.g., medical bills, lost income, etc.)

# Victim Impact Statement

**VICTIM IMPACT STATEMENT**

A victim impact statement is a statement from a victim of crime that describes the physical or emotional harm, property damage or economic loss they have suffered as the victim of an offence.

A victim of crime has the right to present a victim impact statement and to have the Court or Review Board take it into account.

A victim can choose to present their victim impact statement by:

- reading it aloud
- reading it with a support person close by
- reading it behind a screen or outside the courtroom by closed-circuit television

A victim can also ask the Court to allow them to present their statement in another way such as having the prosecutor, the Court, or a victim service worker read it.

A victim may also include a drawing, poem or letter as part of their victim impact statement to express how the offence has affected the victim.

- Addressed to the court
- Can be reused for co-defendants
- Things to consider:
  - Emotion and mental impact
  - Financial impact
  - Opinion on the sentence or sentencing conditions
  - If you do/do not agree with the plea agreement
  - Additional information regarding the crime you feel would assist the Judge in making an informed decision
  - Your perspective on what occurred during the crime

### AFFIDAVIT OF VICTIM'S PECUNIARY LOSS

Name of Victim

, being first duly sworn, says:

- | Description of Pecuniary Loss | Replacement Value | Documentation  |
|-------------------------------|-------------------|--|
|                               |                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                               |                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                               |                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                               |                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                               |                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                               |                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                               |                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                               |                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                               |                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                               |                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                               |                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                               |                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
|                               |                   | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| TOTAL PECUNIARY LOSS          |                   |  |

- DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

### Signature of Victim

Printed Name of Victim

Signed and sworn to (or affirmed) before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

by \_\_\_\_\_  
Name of Victim

Signature

- Also known as “restitution request”
- Financial loss as a direct result of the crime
  - Medical bills/copays
  - Counseling expenses
  - Future counseling/medical expenses
  - Lost wages; inability to work
  - Damage or unrecovered items/property
- Include any documentation you have, to support your request

# Sentencing

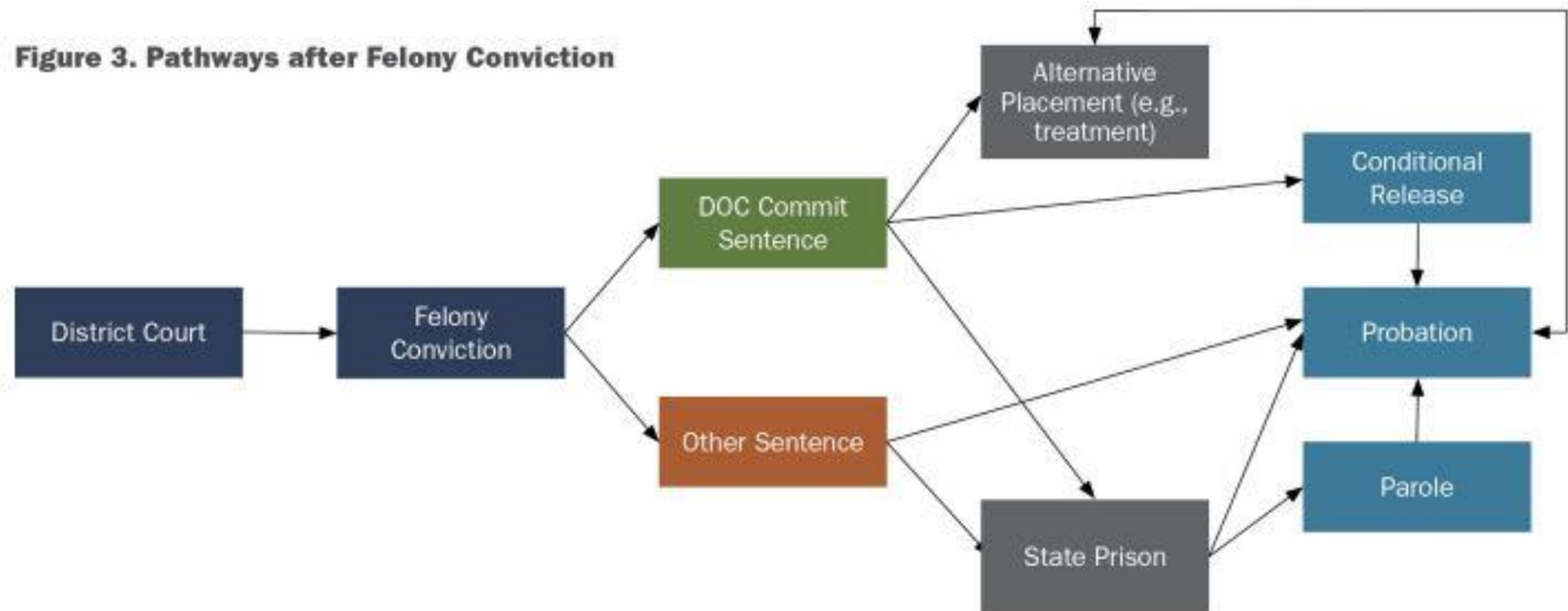
- If the jury or judge finds the defendant guilty of at least one count charged in the indictment, the court will impose some sentence on the offender.
- A Pre-Sentence Investigation can be ordered or waived
- The offender has the right to be present for sentencing, as does a victim.
  - Both persons may make a statement before the court imposes sentence.
  - The lawyer for the government and the offender also will address the court regarding the sentence.
- The court may sentence the offender to:
  - imprisonment,
  - probation,
  - community service,
  - treatment,
  - or deferral or suspended a portion or all of the sentence.
- The court also can fine the offender or order the offender to pay restitution to the victim.
  - Restitution is a monetary payment made by an offender to the victim to compensate the victim for the financial harm caused by the crime.

# Sentencing for Non-Violent Felony

1. Sentencing judge shall first consider alternatives to imprisonment of the offender
  1. Community corrections facility or program
  2. Prerelease center or program
  3. Day reporting program
2. Sentencing judge shall take into account
  1. The interests of justice and the needs of public safety truly require the level of security provided by imprisonment
  2. The needs of the offender can be better served in the community or in a facility or program other than a state prison
  3. There are substantial grounds tending to excuse or justify the offense, though failing to establish a defense
  4. The offender acted under strong provocation
  5. The offender has made restitution or will make restitution to the victim of the offender's criminal conduct;
  6. The offender has no prior history of conviction for a criminal act or, if the offender has a prior history of conviction for a criminal act, the offender has led a law-abiding life for a substantial period of time before the commission of the present crime
  7. The offender's criminal conduct was the result of circumstances that are unlikely to recur
  8. The character and attitude of the offender indicate that the offender is likely to commit another crime
  9. The offender is likely to respond quickly to correctional or rehabilitative treatment; and
  10. Imprisonment of the offender would create an excessive hardship on the offender or the offender's family
3. If the judge sentences the offender to a state prison, the judge shall state the reasons why the judge did not select an alternative to imprisonment, based on the criteria contained in subsection

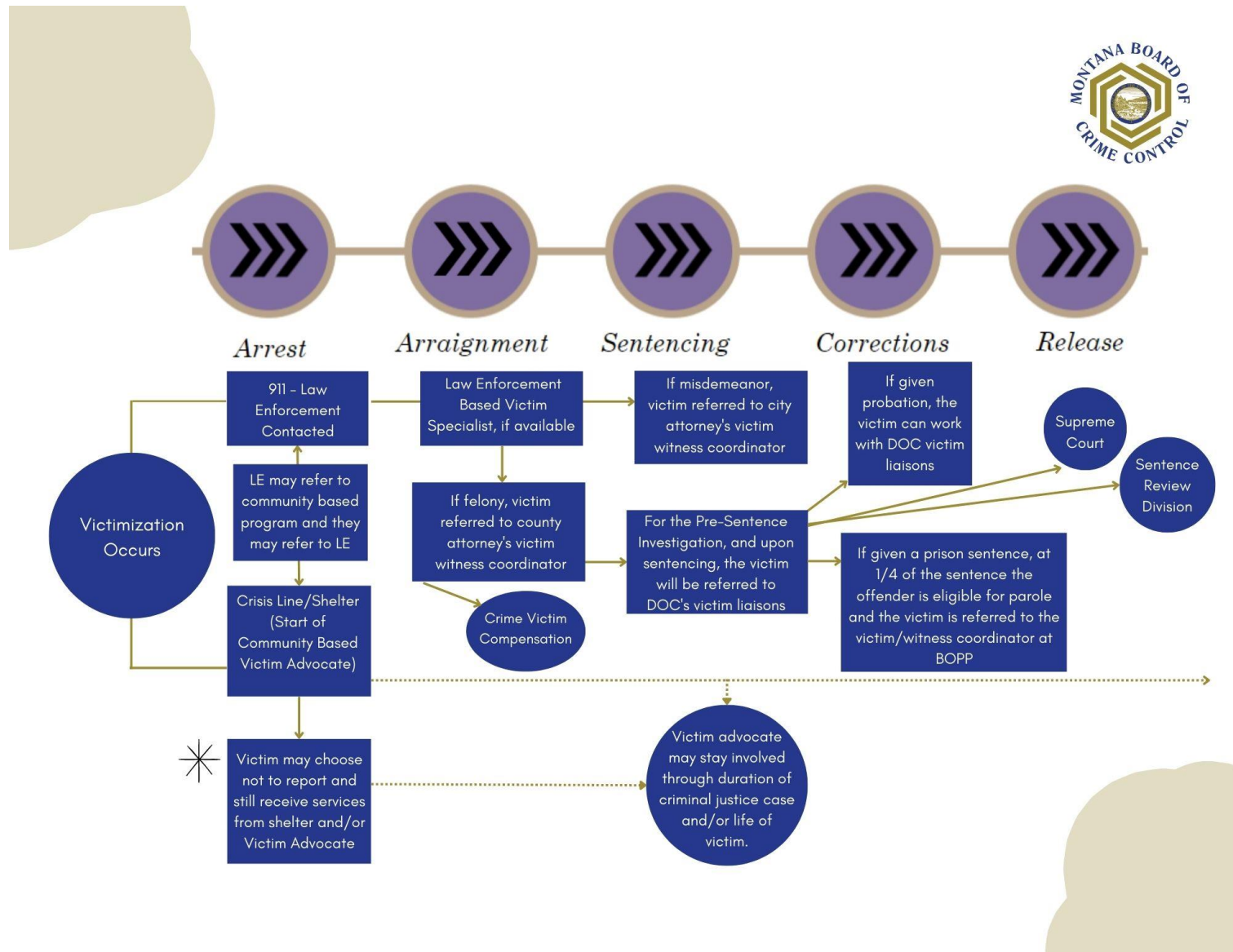


**Figure 3. Pathways after Felony Conviction**



# Key Victim Involvement/Input

- County Attorney Office
  - Plea agreement, hearing scheduling, conditions of sentence
- PSI Process
  - Victim Impact Statement, Pecuniary Loss Affidavit (Restitution)
- MASC/START Assessment
  - Victim input on needs/assessment process. Safety concerns and history of offender's potential treatment needs
- Conditional Release
  - Victim input on conditions, community request, employment and residence location (if applicable).
- Montana Board of Pardons & Parole
  - Victim Impact Statement, hearing schedule, statement during parole hearing
- CDFS/Early Termination
  - Victim Input for consideration of early termination or discharge from supervision



# Notification and Information

Montana Department of Corrections


# Victim Information & Notification Every Day

- **Registration is not automatic – participation is voluntary**
- **VINE (Victim Information & Notification Every Day)** is a free, confidential, automated telephone, text messaging, and email system that provides custody status information about adult felony offenders under Montana Department of Corrections supervision—in prison and community-based facilities and programs.
  - Offender must be under DOC supervision prior to registration
  - Location and custody status updates on all adult offenders under DOC supervision – prison and community corrections and programs
  - Option to register for automated notification by phone, email, mobile app, and/or text messaging
  - Free to users (DOC contracts with Appriss, Inc.)
  - Anyone can register or call for information 24/7
  - Free mobile app
  - Anonymous and confidential
  - Victim recognition – Most states have VINE
  - Interstate Compact varies from state to state which notifications are available
    - MT VINE will no longer send notifications for offender's on Interstate Compact

It is the victim's responsibility to keep contact information current with VINE, DOC, District Court, BOPP

To access: <https://vinelink.com>



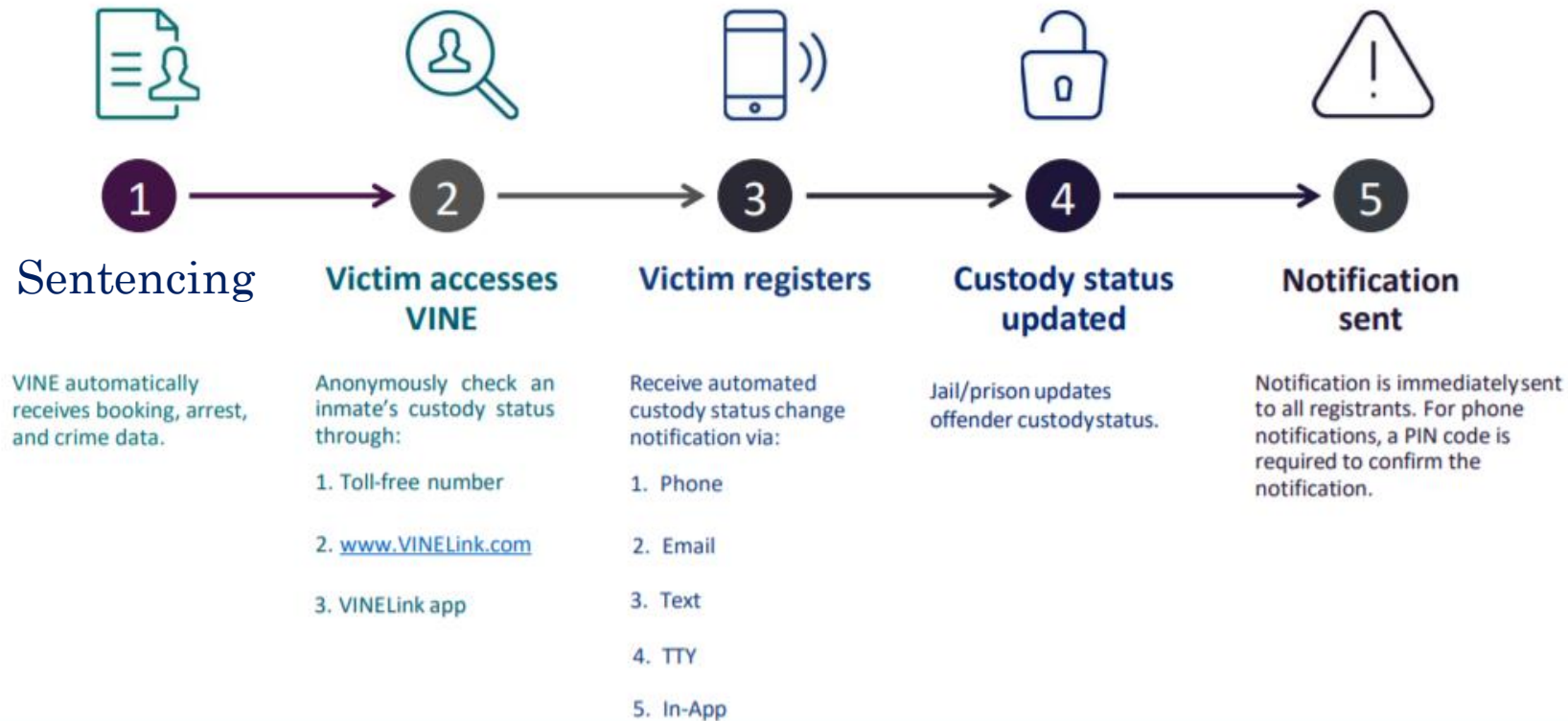


**25+ million victims and  
concerned citizens rely on**




**...the nation's leading automated  
victim notification service**

## VINE Workflow Offender Data







# OFFENDER SEARCH

"PUBLIC SAFETY & TRUST"

[INSTRUCTIONS](#) | [SEARCH TIPS](#) | [CONTACT US](#)

## Offender Search

Department of Corrections I.D. Number

Last Name

First Name

Reset

Submit

The Offender Search service searches for the records of convicted felons in the state of Montana.

- [Correctional Status Glossary](#)
- [D.O.C. Victims Information](#)
- [Board of Pardons and Parole](#)
- [Sexual or Violent Offender Registry](#)
- [Disclaimer](#)

- Montana Interactive manages : Pulls public information about offender from OMIS
- Provides:
  - Current location
  - Physical and Demographic characteristics
  - AKA's
  - Scars, Marks, Tattoos and other physical conditions
  - Legal record

To access: <https://app.mt.gov/conweb/>



# Sexual or Violent Offender Registry

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Montana's Sexual or Violent Offender Registration Act is designed to protect the public from sexual or violent offenders by requiring offenders to register with local law enforcement agencies in the jurisdiction where they reside. Information about these offenders is then made available to the public.

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This Registry provides an up-to-date listing of sexual and violent offenders who are required to register their whereabouts

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To access: <https://app.doj.mt.gov/apps/svow/search/>

# Post Conviction Process

# Post-Conviction Process following Sentence

## Prison

- A sentence including placement at Montana State Prison (MSP) or Montana Women's Prison (MWP).
- Offenders transported upon sentencing and transportation schedule.

## DOC Commit

- A commitment by the District Court to the authority of the Department of Corrections for the determination of the offender's appropriate placement.
- This could include secure placement, assessment, conditional release, and/or treatment

## Deferred (Postponed)

- A period of 1-6 years under certain conditions.
- If an offender successfully completes the deferred term, a district judge may allow him or her to change a plea of guilt to not guilty and dismiss the case.
- If an offender violates the conditions of probation, a judge may impose a period of incarceration up to the maximum allowed by law and suspend any or all of the term.

## Sentence Review

- A Defendant who has received a sentence of incarceration for a term of one year or more in the Montana State Prison or to the custody of the Montana DOC, has a right to apply to the Sentence Review Division for a review of his/her district court sentence.
- The Sentence Review Division has the ability to not only decrease, but also increase someone's sentence.

## Appeals

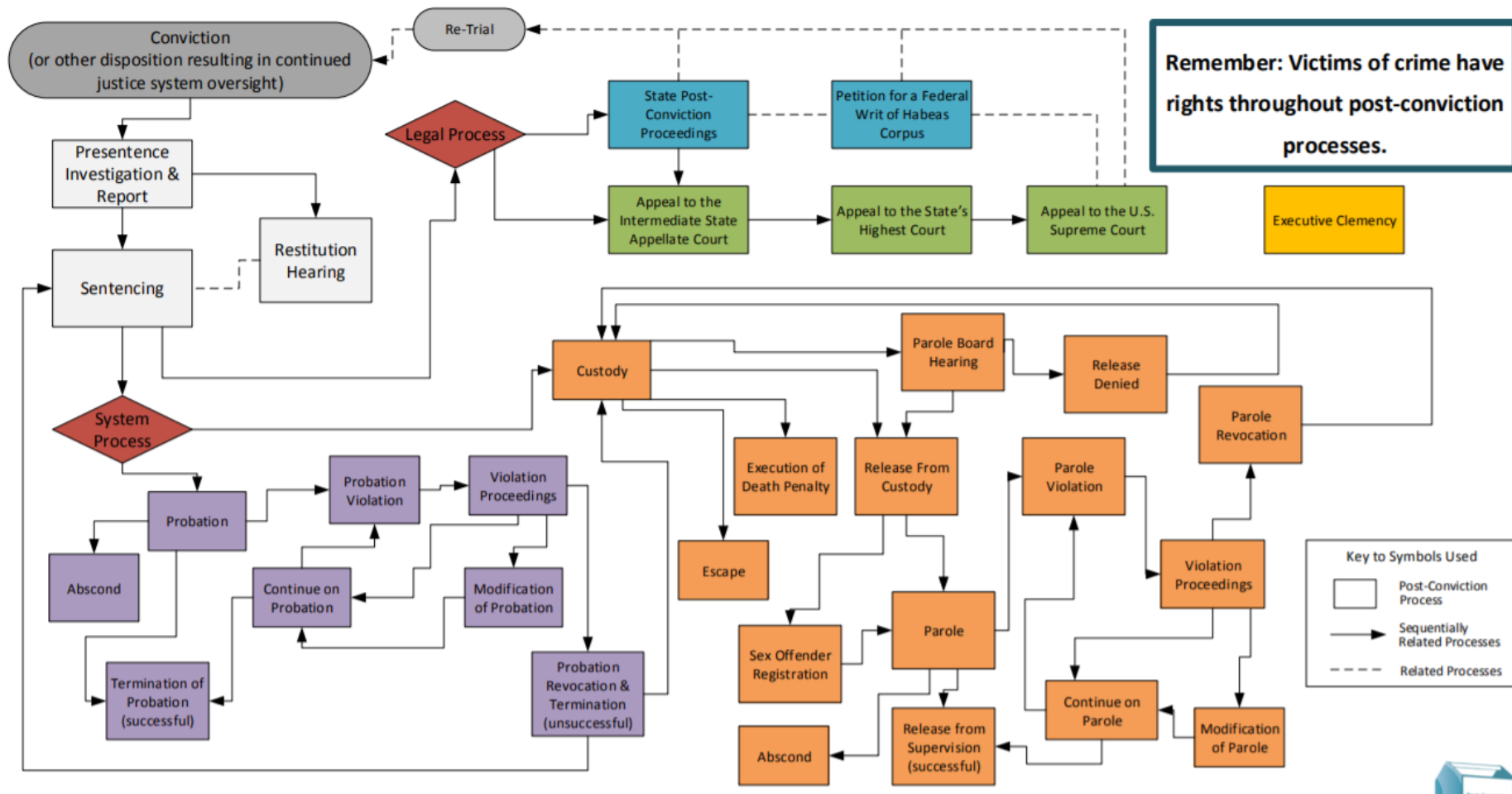
- Offender has 30 days to file a Notice of Appeal after the ruling

# Sentence Review Division

- The Sentence Review Division (the "Division") is established and governed pursuant to Section 46-18-901, et. seq., MCA, wherein the Chief Justice of the Montana Supreme Court appoints three district court judges to act as a review division of the Montana Supreme Court. Each judge serves a three-year term, with one judge designated as the presiding officer or chairperson. Additionally, the Chief Justice appoints an alternate judge to serve a three-year term. The alternate judge substitutes in the hearing(s) when the sentencing judge is a member of the Division.
- A Defendant who has received a sentence of incarceration for a term of one year or more in the Montana State Prison or to the custody of the Montana Department of Corrections, has a right to apply to the Sentence Review Division for a review of his/her district court sentence. The Division has adopted Rules that clarify and expedite its application and review process. The sentence imposed by the district court is presumed correct. However, upon its review, the Division may order a different sentence to be imposed if it is clearly inadequate or clearly excessive (increase, decrease or modify) or may affirm the sentence imposed by the district court. The Defendant has a right to appear and be represented by counsel at his/her sentence review hearing or may waive that right.
- A Decision of the Division in each case is final. The Decisions are published annually in the Montana State Reporter, are filed with the Clerk of District Court where the case originated and will be posted on this site for two years.

# Appeals

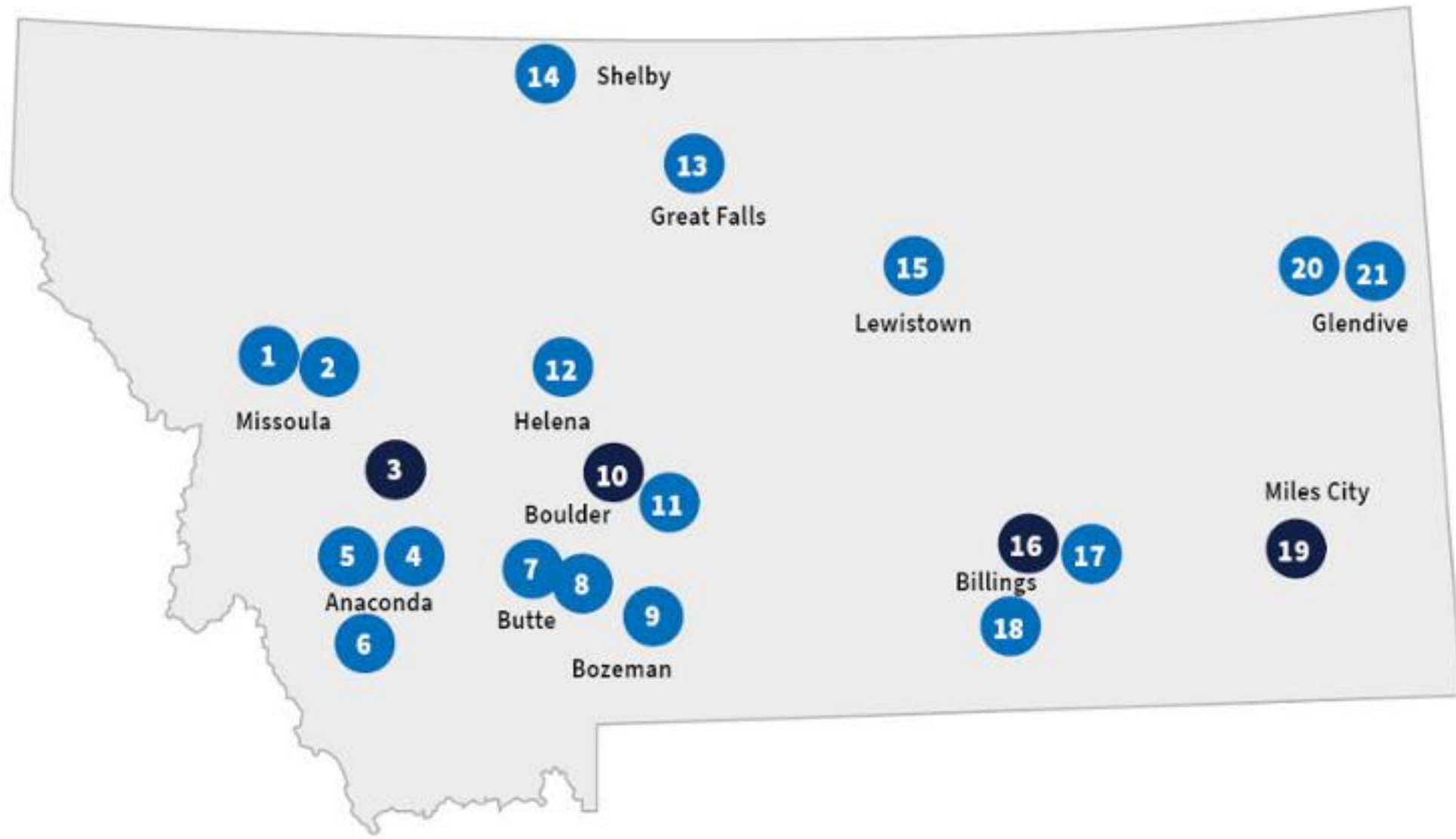
- In most cases, the offender has 30 calendar days to file a Notice of Appeal after the ruling they are appealing was filed in the district court.
- However, if any government or government agency or employee is a party, including the United States, the State of Montana, a city or a county and any governmental officer or agency, the offender must file their Notice of Appeal within 60 calendar days.
- If the appeal involves a “youth in need of care,” and the government is the other party, the Notice of Appeal must be filed within 30 calendar days.



# Secure Custody

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## State-owned and Contracted Correctional Facilities



State - owned Facility

Contracted Facility



# Secure Facilities- State Owned

- **Montana State Prison | Deer Lodge, MT**

- Houses nearly 1,600 male inmates in a secure, 68-acre compound.
- The facility serves inmates requiring low to high levels of security and provides them with a variety of evidence-based programming designed to assist them when they transition back to Montana communities.
- MDIU: Every inmate that goes through institution – MDIU, while at MDIU (14-day quarantine).

- **Riverside Special Needs Unit | Boulder, MT**

- A sub-unit of Montana State Prison. It houses male inmates with serious, long-term medical needs. It has a capacity of 25

# Secure Facilities- State Owned

- **Montana Women's Prison | Billings, MT**

- A 250-bed secure facility that houses approximately 225 female felony inmates.
- The facility provides a secure environment that emphasizes accountability, productivity and personal growth for the women who live within its walls.
- The women participate in a variety of gender-specific, evidence-based programming designed to assist them when they transition back to Montana communities.

- **Pine Hills Correctional Facility | Miles City, MT**

- Plays a dual role for the Montana Department of Corrections.
- First, the facility is the only state-operated long-term facility for adjudicated male youthful offenders (ages 10-17), with an operational capacity of 38.
- Pine Hills is a fully functioning school.
- In addition, the facility serves as an assessment center for males on the eastern side of the state, with 44 adult treatment beds and 22 adult beds for residents awaiting transfer.

# Secure Facilities- Contracted

## **Crossroads Correctional Center | Shelby, MT**

- Contacted men's prison with CoreCivic
- Approximately 900 inmates between CCC and DCF
- DOC's Contract Placement Bureau is responsible for coordinating movement of inmates, contract compliance and oversight

## **Dawson County Correctional Facility | Glendive, MT**

- Contracted facility with Dawson County

# Programming at MSP

1. Core Correctional Practices Skills Groups (CCP Skills Groups),
2. Thinking for a Change (T4C)
  - 3.5 months
3. Victim Impact (VI)
  - 13 weeks
  - Concluding the course, a Victim Impact Panel (VIP) is held with volunteer crime victim/survivor speakers
4. Cognitive Behavioral Therapy Anger Management (CBT AM)
  - 6-12 weeks
5. Substance Use Treatment- 3.5

# Community Worker Program

- An inmate may be eligible
  - Minimum custody level (WRC)
  - Within 3 years of discharge or parole eligibility
  - Completed or enrolled in recommended or court-ordered treatment, work or skill development programs
  - Acknowledge and accepted responsibility for crime(s)
  - Received positive work reports
  - Proven the ability to work independently
  - Sex offenders must have completed or be actively participating and progressing in sex offender treatment as determined by a treatment provider to be considered eligible
- Each application is screened initially by the housing unit management team, victim notification, followed by a review by MSP administration screening committee, and then the final review which includes local business leaders and law enforcement personnel.



# Questions

## Allison Smaaladen

VICTIM LIAISON

REHABILITATION AND PROGRAMS DIVISION

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## Tawny Rogers-Sturn

*She/Her/Hers*

**State Victim Liaison**

**Montana Board of Crime Control**

Office: 406-444-0213 | Cell: 406-781-3406

Email: [tawny.rogers@mt.gov](mailto:tawny.rogers@mt.gov) | [tawny.sturn@mt.gov](mailto:tawny.sturn@mt.gov)

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# Contact Information