

# WHAT TO DO IF YOU OR A LOVED ONE IS ARRESTED IN SAN DIEGO COUNTY



## UNDERSTAND

### *Your Rights*

Taking the time to learn your rights could be the most important thing you do if you or a loved one is arrested in the San Diego area.

[Read more on page 4](#)

## KNOW THE ESSENTIALS OF THE

### *Legal Process*

As you navigate the criminal justice system at each step of the way, decisions you make could affect the outcome of your case.

[Have a look on page 7](#)

**(619) 297-2800**

***Call NOW for a FREE consultation.***

*Brought to you by:*

 **Sevens Legal, APC**



## ABOUT US

# Sevens Legal

**W**e pride ourselves on representing our clients by leveraging over 40 years of combined expertise and litigation success. We offer a wide variety of criminal defense representation throughout Southern California and San Diego County. **Our team of skilled attorneys includes a former prosecutor and a certified criminal law specialist.**

We'll help you gain a big picture understanding of your case so you know the full scope of your rights and the best ways to achieve a successful outcome.



## *When tragedy strikes, take advantage of a free consultation.*

**O**ften your very best first step is getting representation and understanding your options immediately. For most offenses, you can only be held for 48 hours before appearing before a magistrate or judge (arraignment)—and often that time can much less with the right legal representation.

Rather than tying up your family's limited financial resources by posting bail, consider contacting an attorney first. The following guide can help you better understand and navigate the San Diego criminal justice system, but it is no substitute for quality legal representation.

# Table of Contents

<u>Navigating the Criminal Justice System</u>	3
<u>Understanding Your Rights</u>	4, 5
<u>Detention v. Arrest, Classification of Offenses</u>	6
<u>State Prosecutions – Felonies</u>	7, 8
<u>State Prosecutions – Misdemeanors</u>	8
<u>Sentencing and Probation</u>	9
<u>Federal Prosecutions</u>	10, 11
<u>Ripped from the Headlines</u>	12
<u>Criminal Courthouses &amp; Prosecuting Agencies</u>	13
<u>San Diego District Attorney's Office</u>	14
<u>Law Enforcement Agency Jurisdictions</u>	15



# The Criminal Justice System

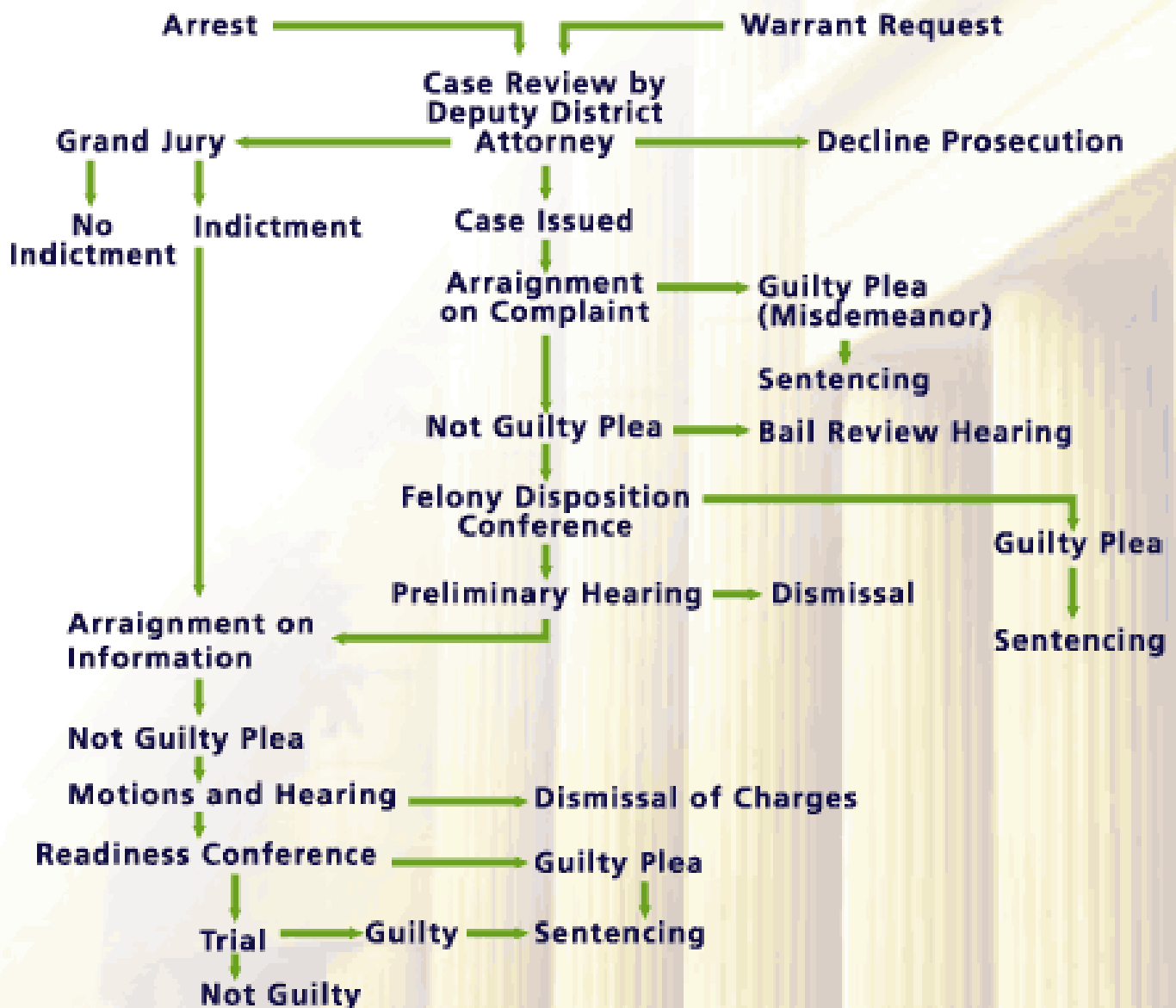
**N**avigating the criminal justice system can be a frightening prospect—but you don't have to do it alone. **Securing the right legal representation early in this confusing process**

**can make all the difference for receiving the absolute best possible outcome.** Below is an overview of how a defendant navigates the criminal justice system in San Diego when being charged with a felony.

At each step of the process, the right legal representation can mean a faster and more favorable resolution to you or a loved one's legal troubles.

## OVERVIEW OF THE CRIMINAL JUSTICE SYSTEM IN SAN DIEGO

Available at the website of the San Diego County District Attorney: <http://www.sdcda.org/office/criminal-justice-system.html>



KNOWLEDGE IS POWER

# Your Rights

## Miranda Rights

If you are placed under arrest, the U.S. Constitution guarantees you your Miranda rights (listed to the right). They are some of the most important rights that Americans have when facing arrest and questioning by authorities and you should familiarize yourself with them.

**Prior to questioning you, law enforcement officers should warn you of these four Miranda rights.** If police fail to warn you of them, you may be able to request that any statements made by you prior to being warned be suppressed, meaning they cannot be used against you in court. However, if you voluntarily provide a statement to law enforcement without being questioned, your Miranda rights do not apply and likely will not be suppressed in court.

All questioning by police must stop once you request an attorney be present. If you voluntarily continue to talk after requesting an attorney, your answers can be used against you for impeachment purposes (i.e., if you testify to something differently on a later date or hearing).

**You should contact a lawyer as soon as possible if you are arrested for a crime. An experienced criminal defense attorney often has a better understanding of what you should or should not say to police to avoid being misunderstood.**

## Arrest

All law enforcement officers, including probation and parole officers, can arrest you under the following circumstances.

### ARREST WARRANT

Police can arrest you if they have an arrest warrant signed by a magistrate or judge.

### PROBABLE CAUSE

Police can arrest you without an arrest warrant if they have probable cause to believe you committed a felony.

### WITNESS TO A MISDEMEANOR

Police can arrest you without an arrest warrant if they see you commit a misdemeanor offense in their presence.

## Arrest Warrants

A magistrate or judge must have sufficient reason to believe you committed a crime before signing an arrest warrant. An arrest warrant is usually required before police can take you into custody in your home.



### KNOW YOUR RIGHTS

## Miranda Rights

01. You have the right to remain silent.
02. Anything you say may be used against you in court.
03. You have the right to have an attorney present while you are questioned.
04. You will be appointed an attorney if you cannot afford to hire one on your own.

However, if police believe they must act quickly in arresting, they may be able to arrest you to prevent you from endangering the lives of others, damaging another person's property, or destroying evidence.

## Pre-File Investigation

Criminal offenses generally begin with an investigation and report from a law enforcement agency. If, after investigation, the agency recommends the filing of charges, the agency will forward their report to the appropriate prosecuting office. All state criminal felony cases are forwarded to the San Diego County District Attorney's office, except for those misdemeanor cases alleged to have occurred in the City of San Diego. These cases are forwarded to the San Diego City Attorney's Office.



- CONTINUED -

## Your Rights

**A**fter receiving the report and recommendation from a law enforcement agency, the prosecution reviews the report and does one of the following:

1. Rejects the case;
2. Sends the case back to the appropriate law enforcement agency for further investigation; or
3. Files charges.

In the event a case is rejected, the prosecution may file charges within the statute of limitations from the date of the alleged offense(s).

### Arraignment

**A**n arraignment is the first opportunity to enter a plea in your case. If you are appearing at an arraignment for felony or domestic violence charges, you will be appointed an attorney if you have not retained one yourself.

At your arraignment, there are several possible pleas you can enter, the most common being:

1. Guilty;
2. Not Guilty; or
3. No Contest.

**I**f you plead not guilty at your arraignment, the judge will then address the issue of bail. If you plead guilty or no contest at your arraignment, you will proceed with sentencing.

### Bail

**B**ail is a form of security (usually money) given to the court to ensure that you will attend your future court appearances. Each county sets a local bail schedule, which lists a suggested bail amount per the type of offense charged. Bail is set at the time of your arrest.

At your first court appearance (your arraignment), the magistrate will set your bail in an amount he or she deems sufficient to ensure you will appear in court. Typically, the magistrate will stick to the scheduled bail amount for the offense(s) charged.

However, the prosecution may argue for an increase in bail based on aggravating factors. Likewise, your defense attorney may argue for a decrease in the scheduled bail amount based on mitigating factors.

**An effective bail argument can result in lower bail or granting of an own-recognition (OR) release, in which you do not have to post bail.**



## WHY CHOOSE SEVENS LEGAL?

### GREAT REPRESENTATION

#### *It counts*

Don't go into battle alone. Align yourself with the best in criminal defense law – Sevens Legal, APC of San Diego. Our attorneys will aggressively litigate on your behalf.

### WHAT YOU DON'T KNOW

#### *Can hurt you*

Especially when it comes to your rights and options when facing a criminal case, what you don't know can hurt you. So contact us today for your free consultation with a member of the dedicated and effective Sevens Legal team. You owe it to yourself or your loved one.

[More information:  
www.sevenslegal.com](http://www.sevenslegal.com)

### CLIENT TESTIMONIALS

#### *What people are saying*

**“**If you are ever caught in a legal situation and you need good representation, I highly recommend Sevens Legal. They are caring, knowledgeable, honest and work tirelessly to help you with your case... you can't go wrong with Sevens Legal.”

*Cammy T.*

**“**The partners at Sevens Legal are five-star attorneys. Ms. Greene fought my case aggressively and helped get multiple traffic infractions completely dismissed. The Sevens Legal team are compassionate and will not stop until your case is won or severely reduced.”

*Sergio D.*

## UNDERSTANDING

# Detention vs. Arrest

**Y**ou are arrested when you are taken into custody, which means you are not free to leave the scene. Law enforcement officers may still detain you and/or hold you for questioning for a brief period if they believe you may be involved in a crime.

If the police do not believe you have committed a crime after questioning but before charges are filed, they will provide a written release to you. Your arrest would be considered a detention at this point and not an arrest.

It is important to remember that in either situation, you are not required to answer any questions other than providing your name, address, and a form of identification.



# Classification of Offenses

THERE ARE THREE CLASSES OF OFFENSES FOR WHICH YOU MAY BE PROSECUTED:

### ***Infractions***

Offenses that often result in a simple fine.

#### **Examples:**

- Traffic violations such as speeding or driving without valid registration
- Low-level criminal offenses such as public intoxication or minor in possession of alcohol

### ***Misdemeanors***

Offenses that can result in both a fine (not exceeding \$1,000) or jail time (up to 364 days of custody).

#### **Examples:**

- Petty theft
- Vandalism
- Driving Under the Influence
- Prostitution

### ***Felonies***

Most serious class of offense, which can result in the death penalty or by imprisonment for more than one year.

#### **Examples:**

- Murder
- Robbery
- Rape

## STATE PROSECUTIONS

# Felonies

**A** felony case can be filed by the prosecution in two ways:

- Grand jury indictment, or;
- Filing a complaint with a magistrate.

Typically, a criminal felony case begins by filing a complaint with a magistrate.

## Grand Jury Indictment

If an indictment is filed against you, you do not have a right to a preliminary hearing. However, if a felony complaint is filed against you, you have the right to a preliminary examination typically within ten days of your arraignment.

## Preliminary Hearing

In felony cases, a preliminary hearing must be held in front of a magistrate where the prosecution must present sufficient evidence that probable cause exists to believe (1) that a crime has been committed, and (2) that you committed it.

At this hearing, the prosecution will call live witnesses to testify. Your attorney may cross-examine these witnesses. The preliminary hearing is a crucial step in a felony case because it gives your defense attorney the opportunity to show both the court and the prosecution why your case should be discharged or why a reduction in your charges is warranted.

If the magistrate is convinced there is sufficient evidence to bring you to trial, a jury trial date will be set following the preliminary examination.

## Felony Disposition & Felony Readiness Conferences

Your criminal defense attorney will have two formal opportunities to meet with the prosecution and a judge to discuss the possibilities of negotiating a settlement in your case: prior to your preliminary hearing (felony disposition conference) and following your preliminary hearing (readiness conference).

Your attorney may file any pretrial motions and exchange discovery during these conferences. A great number of

and defense. The prosecution will present its opening statement, followed by your attorney's opening statement if he or she chooses to present one.

Similar to a preliminary hearing, the prosecution will call witnesses and introduce evidence against you. After each witness, your attorney will have the opportunity to cross-examine the witness.

Additionally, you have the right to call witnesses and present evidence on your behalf. You are not required to testify at trial. However, any "defense" witnesses will be subject to cross-examination by the prosecutor.



**A**n adult criminal defendant has the right to a trial by twelve jurors, who comprise a "jury." The jury will listen to all of the evidence presented by both the prosecution and your defense attorney. After considering all evidence and testimony, the jury will deliberate and decide what has been proved and what has not been proved.

In order to convict (find you guilty of a charge) or acquit (find you not guilty of a charge), all twelve jurors must agree. If all twelve cannot come to an agreement, the court will declare a "mistrial." If a mistrial is declared, three options are available: (1) the case is dismissed; (2) the case is brought before a different jury; or (3) the prosecution and defense agree to a settlement or plea bargain.

cases are resolved by plea agreements during these two conferences.

## Jury Trial

If the prosecution and defense cannot come to an agreement, the next step is your jury trial. First, a jury is selected.

Prior to opening statements, the judge will hear and rule on any pretrial motions (i.e., motions to include or exclude certain evidentiary items) filed by the prosecution



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## Felonies

### STATE PROSECUTIONS

*It is important to hire a skilled attorney who will explore all possible legal options including the filing of pre-trial motions, the selection of the most favorable jurors from the pool of potential jurors, vigorously cross-examining prosecution witnesses, and presenting all affirmative evidence on your behalf.*

If the jury finds you guilty, the judge who oversaw your jury trial will sentence you. This may occur immediately after the verdict, or at a future date set for sentencing.

An experienced attorney will collect letters of support from your family, friends, and coworkers on your behalf, any supporting documents, and a Statement in Mitigation, which essentially provides the court with an opportunity to consider any mitigating factors that may warrant a deviation from the standard sentence terms.



### STATE PROSECUTIONS

## Misdemeanors

Misdemeanor cases, while generally less serious in nature than felonies, may still carry with them serious consequences and adverse effects. A misdemeanor conviction may impact your immigration status, hinder your ability to find housing and gainful employment, and can leave a lasting mark on your criminal record. Hiring a skilled attorney to protect your rights and fight on your behalf is just as important when dealing with misdemeanor charges as it does felony charges.

### Arraignment

Similar to felonies, the first court appearance will be your arraignment, where you will either plead guilty, not guilty, or no contest. In most misdemeanor cases, your attorney can appear at this hearing on your behalf. However, if you are charged with misdemeanor domestic violence charges, your appearance is necessary at the arraignment.

### Readiness Conference

Following your arraignment, a readiness conference will be set to provide both the defense and the prosecution an opportunity to resolve your case. If additional time is required (i.e., where additional investigation is warranted or a psychological evaluation is needed), an additional readiness conference may be scheduled at this time. If, however, the parties cannot come to a settlement agreement, the next step would be your jury trial.

### Jury Trial

The rules and court process in felony jury trials equally apply to misdemeanor trials.



# State Sentencing & Probation



## ***Felony Probation***

If you are convicted of a felony, you may be placed on felony probation, allowing you to serve your sentence in your community, as opposed to in custody in a California state prison.

Before deciding whether to sentence you to felony probation, the judge will request a report from the San Diego County probation department. Your probation report will include a recommendation as to whether you are eligible and suitable for probation.

The recommendation will be based on an interview you will attend with a probation officer, interviews with the complaining witnesses in your case, and other supporting documentation (e.g., psychological reports, mitigating documents, etc.).

Generally, felony probation will last between three years and five years. You will be required to report an assigned probation officer throughout the duration of your probationary term.

## ***Misdemeanor Probation***

Unlike a felony case, misdemeanor cases do not require the judge consider a probation report, unless you are convicted of misdemeanor domestic violence or sex crimes.

If placed on summary probation, you will not be required to report to an assigned probation officer.

## ***Violation of Probation Terms & Conditions***

If you violate the terms and conditions of your probation, the court may revoke your probation and require you serve time in custody. Examples of probation violations include:

- Failure to pay fines and/or fees
- Failure to maintain gainful employment
- Failure to remain law-abiding
- Failure to complete court-ordered treatment programs.

Depending on the circumstances, the court may reinstate your probation under the same terms and conditions, or modify the terms to account for your violation.

# Federal Prosecutions

## Jurisdiction of Federal Government

The following crimes fall within the jurisdiction of the federal government:

- A crime in which the defendant crosses state lines
- A crime in which the criminal act crosses state lines
- A crime that occurs on federal property
- A crime involving immigration and/or customs violations

## Arrest Warrant

Federal crimes are investigated by federal officers, including agents of the Federal Bureau of Investigation (FBI) and the Drug Enforcement Agency (DEA). If you are suspected of a federal crime, federal officers will first obtain an arrest warrant based on either a complaint or an indictment filed with the U.S. District Court.

If a warrant for your arrest is obtained based on a complaint, an affidavit will typically accompany the complaint. The affidavit is used to establish probable cause that you committed the denoted federal crimes by discussing the evidence and your alleged involvement in the instant offense.

## Initial Appearance

At your first appearance, you will appear before a federal magistrate. It is at this time you will be informed of the charges against you. Similar to an arraignment in state court, you will be advised of your constitutional rights, including your right

to counsel and your right to remain silent. Typically, the magistrate will inform you of the charges as well as the statutory maximum sentence for the charged offenses.

If you are unable to afford an attorney, you will be required to fill out a financial affidavit to determine whether you qualify for a federal public defender or a CJA (Criminal Justice Act) panel attorney.



## Bail

Similar to a bail review hearing in state court, government can move for detention at your initial appearance if it wants you detained.

In certain "presumption" cases, the government is entitled to three court days to prepare for a bail hearing. Typically, these cases include offenses such as bank robbery, child pornography, or drug trafficking. The government may also receive three days to prepare if you are believed to be a danger to the public or a flight risk.

If you are seeking bail, you will be referred to pretrial services for an interview with a

U.S. Probation Officer. The officer will interview you for purposes of providing the court with your criminal history and background. Your attorney may be present at your pretrial services interview.

Following your interview, a magistrate will consider the various positions of the government, your attorney, and probation in determining whether to release you on bond. Similar to a state prosecution, relevant factors to be considered by the magistrate include whether you are a flight risk, danger to the community, your local and familial ties, history of attendance at previous court proceedings, and your employment.

The following options are available to a magistrate:

- 1) Detain you;
- 2) Release you on an unsecured bond or on your own recognizance; or
- 3) Release you subject to certain conditions.

## Federal Grand Jury

If you are charged with a felony in a federal case, you cannot be prosecuted without either:

- 1) A federal grand jury indictment, or
- 2) A waiver of the right to indictment.

Similar to a preliminary hearing in state court, the grand jury acts as a check on the prosecutorial power of the U.S. Attorney's Office. A federal grand jury consists of 23 randomly selected citizens

# Federal Prosecutions

- CONTINUED -

from across the Southern Judicial District of Southern California. After hearing evidence presented by the U.S. Attorney's Office, the grand jury votes to either indict or not. Defense attorneys are not allowed to appear, let alone present evidence, before the grand jury.

If the grand jury determines there was sufficient evidence presented to establish probable cause, an indictment against the accused is issued. At least twelve jurors must vote to indict, and at least sixteen must be present.

If the accused has entered a waiver of his or her right to indictment, or is charged with a misdemeanor, an Information is filed and the grand jury does not hear the case.

## Prosecution

The U.S. Attorney's Office prosecutes all federal crimes. There are no deputy district attorneys or deputy city attorneys in federal court.

Although not common, it is possible for a defendant to be prosecuted by both a state and federal court for the same offense. The Double Jeopardy Clause prohibits a defendant from being tried twice for the same crime. However, the state and federal governments are separate sovereigns and, thus, do not trigger double jeopardy.

## Sentencing

Typically, punishment for federal crimes is longer than punishment for comparable state crimes. Most federal judges follow the advisory federal sentencing guidelines, which often carry mandatory minimum sentences, when determining the appropriate punishment for a convicted person.

If you are convicted of a federal crime and sentenced to serve time in prison, you will serve your time in a federal prison, as opposed to a state prison.



MEET THE NEWEST  
MEMBER OF THE  
SEVENS LEGAL TEAM

*Attorney*  
*Vanessa Albert*

*Get the best  
representation,  
the best outcome  
—and  
get on with your life.  
Call for a free  
consultation today.*





# Ripped from the headlines: The San Diego Union-Tribune

## San Diego DA felony trial results show 1 of every 3 defendants not convicted



**R**ecently, the *San Diego Union-Tribune* reported that “a defendant had a one in three chance of not being convicted of a felony, a result that

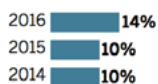
### San Diego DA trial results

Data shows prosecutors' results in trials

#### Felony trial conviction



#### Felony acquittal



#### Misdemeanor conviction



#### Misdemeanor acquittal



Source: San Diego County District Attorney's Office

DANIEL WHEATON/UT

includes outcomes such as dismissed charges and hung juries where a unanimous verdict wasn't reached.”

San Diego's relatively high acquittal rate, especially for less serious crimes (which was a whopping 28 percent), highlights just how important retaining high quality representation is when facing criminal charges.

**A**n experienced team of skilled attorneys with litigation success in a wide range of criminal defense cases is the key to a successful outcome for you or your loved one.

The felony conviction rate reported by the *Union-Tribune* falls “well short of benchmarks the office has set for itself and casts a different light on ... the office's (supposed) 94 percent conviction rate.”

<http://www.sandiegouniontribune.com/news/courts/sd-me-da-trials-20170208-story.html>

### KNOWING THE SYSTEM

## Prosecuting Agencies

**T**he City Attorney's Office prosecutes all misdemeanor violations of California law that are committed within the City of San Diego.

**T**he District Attorney's Office prosecutes all felonies and misdemeanor violations of California law committed within the County of San Diego, except those committed within the City of San Diego.

**T**he U.S. Attorney's Office prosecutes all violations of federal law occurring in the Southern District of California.

### STATE COURTHOUSES







## Courts & Prosecuting Agencies

CRIMINAL COURTS HAVE JURISDICTIONS OVER INFRACTIONS, MISDEMEANORS, AND FELONY CASES. CASES ARE PROSECUTED BY STATE PROSECUTING AGENCIES.

### SAN DIEGO CRIMINAL COURTHOUSES

*In San Diego County, criminal cases are held in the following locations:*

Central Courthouse  
225 W. Broadway  
San Diego, CA 92101

North County Regional Center  
350 South Melrose Drive  
Vista, CA 92081

Juvenile Office

2851 Meadowlark Drive  
San Diego, CA 92123

South County Regional Center  
500 Third Avenue  
Chula Vista, CA 91910

East County Regional Center

250 East Main Street  
El Cajon, CA 92020

FEDERAL COURTHOUSES  
U.S. District Court Southern District of California  
333 W. Broadway #420  
San Diego, CA 92101

### STATE CRIMINAL PROSECUTORS DISTRICT ATTORNEY'S

*In San Diego County, criminal cases are prosecuted by the following state prosecuting agencies:*

OFFICE  
Hall of Justice  
330 W. Broadway  
San Diego, CA 92101  
P: (619) 531-4040

Vista Office  
350 South Melrose Drive, Suite 5000  
Vista, CA 92081  
P: (760) 806-4004

Juvenile Office

2851 Meadowlark Drive  
San Diego, CA 92123  
P: (858) 694-4250

South Bay Office  
333 H Street, Suite 4000  
Chula Vista, CA 91910  
P: (619) 498-5650

El Cajon Office  
250 East Main Street  
El Cajon, CA 92020  
P: (619) 441-4588

Office of the City Attorney  
1200 Third Ave., Suite 1620  
San Diego, CA 92101  
P: (619) 236-6220  
F: (619) 236-7215

CITY ATTORNEY'S OFFICE

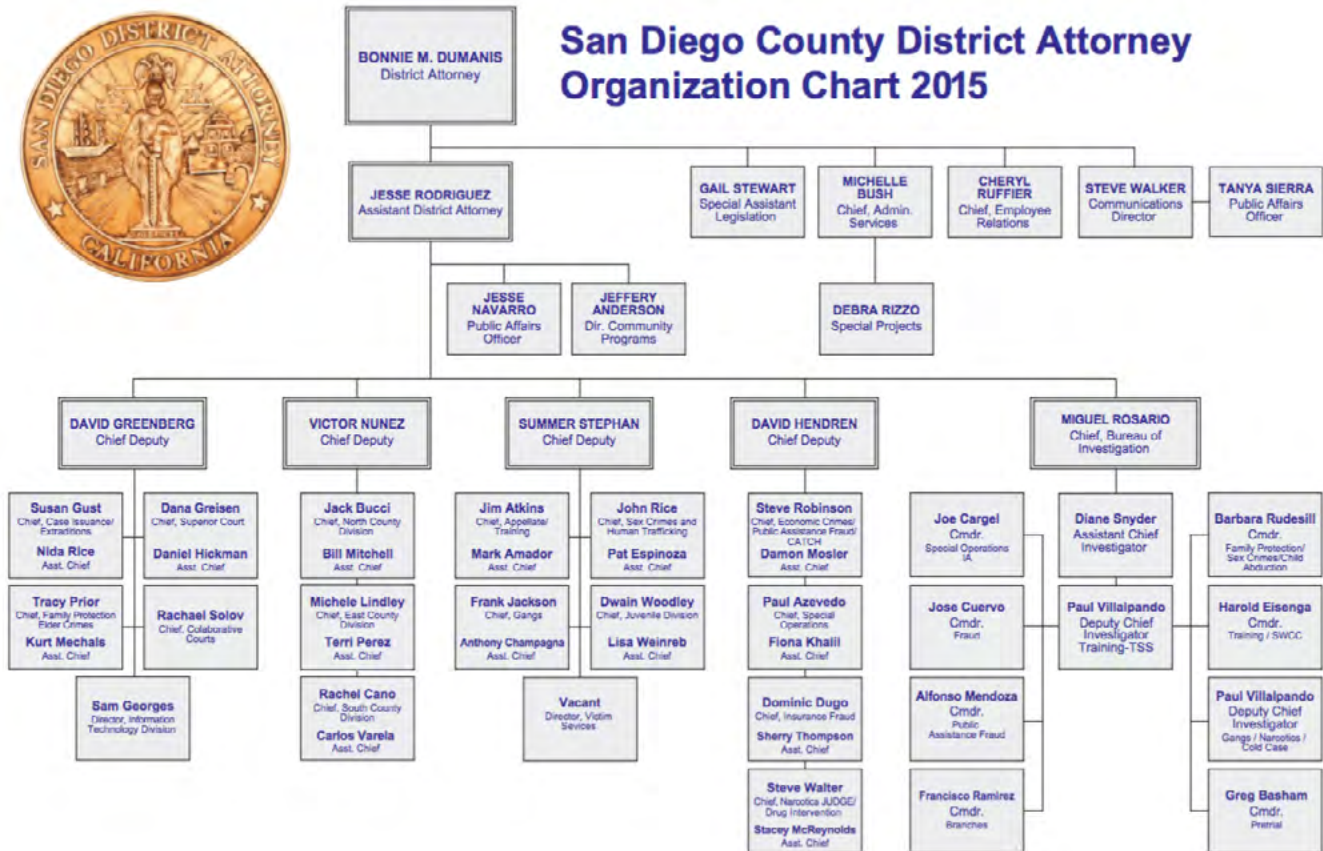
## ORGANIZATIONAL CHART

# San Diego County District Attorney

**N**avigating the criminal justice system can be a frightening prospect—but you don't have to do it alone. Securing the right legal representation early in this confusing process can make all the difference for receiving the absolute best possible outcome.

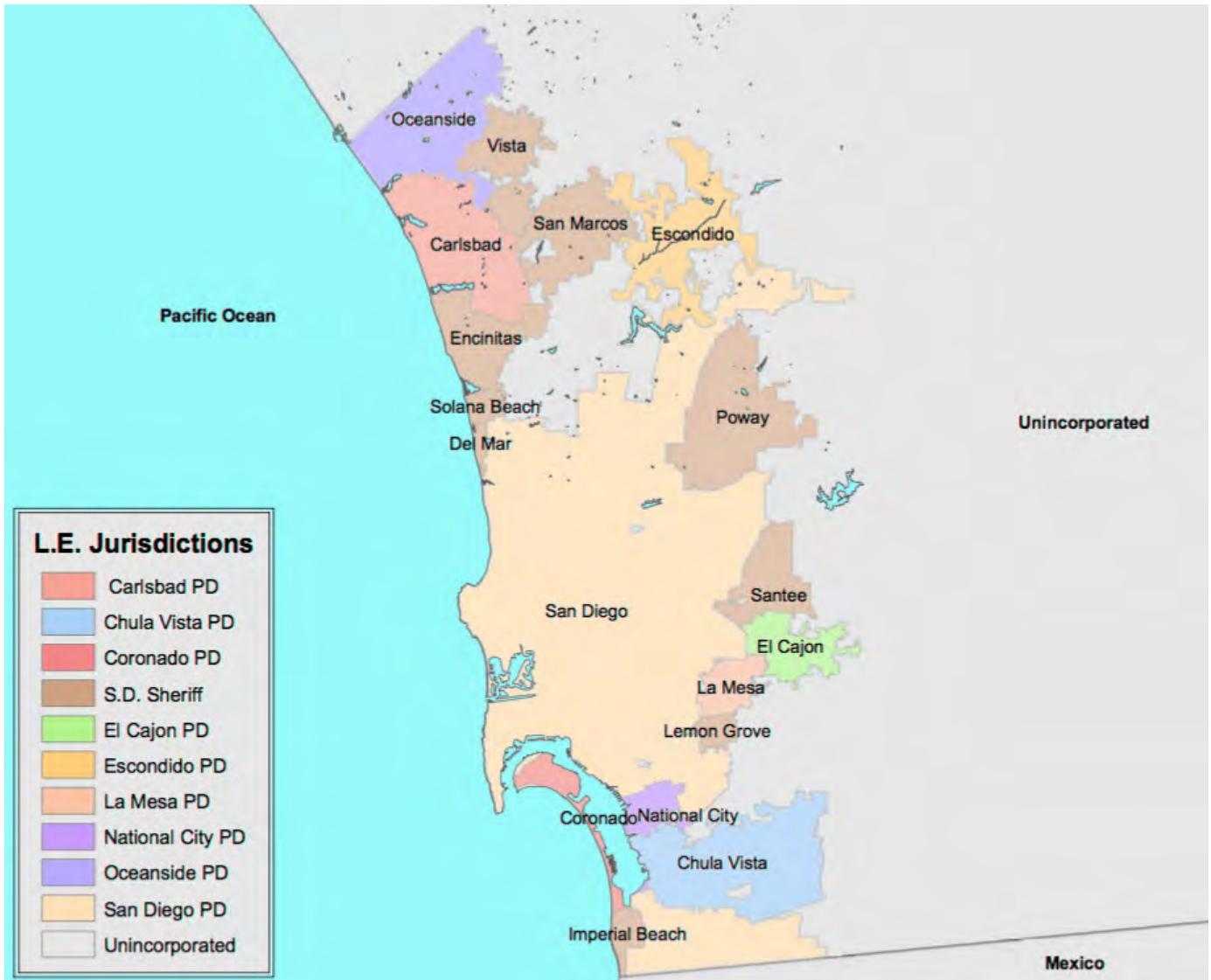
Below is an organizational chart that outlines the departments, staff and titles within the San Diego District Attorney's Office.

At each step of the criminal justice process in San Diego, the right legal representation can mean a faster and more favorable resolution to you or a loved one's legal troubles.



Available at: [http://sandiegodaannualreport.com/wp-content/uploads/2016/03/org\\_chart15.pdf](http://sandiegodaannualreport.com/wp-content/uploads/2016/03/org_chart15.pdf)

# Law Enforcement Agency Jurisdictions





WANT THE BEST  
**Representation?**

**S**evens Legal is here to help you. If you or a loved one has been arrested or charged with a crime, call for a free consultation today.

Our attorneys have decades of experience in dealing with criminal defense cases across Southern California and San Diego County.

DON'T WAIT  
**Call us today**

**I**n each step of the process from arrest to arraignment and beyond, the attorney you choose matters. Having the best legal representation can make all the difference for you or a loved one as you face this difficult ordeal.

We will exhaust all available avenues to reach a favorable outcome in your case.

WE ARE HERE  
**To help you**

**L**et our attorneys have your back. Maneuvering the legal system can be daunting and extremely overwhelming. Whether you are facing charges related to a DUI/DWI offense, probation violation, drug crimes, domestic violence or a number of other criminal defense areas, we will assist you through the process of attempting to have your charges reduced or dropped entirely.



CRIMINAL LAW SPECIALIST  
SAMANTHA GREENE



40+ YEARS OF COMBINED EXPERIENCE.

**Do you have any questions?  
Contact us today!**

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