

# CHECKLIST FOR PROSECUTORS: CAPITAL CASES (BEGINNING OF A CASE)

## Fact Sheet

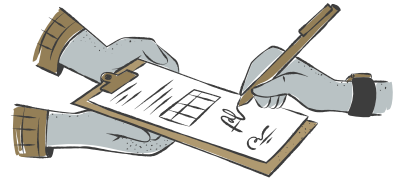


### OVERVIEW

When meeting with victims and survivors at the start of a capital case, prosecutors must be proactive and anticipate any potential challenges. By preparing for these issues early on, prosecutors can help ensure that victims and survivors are fully informed and supported throughout the legal process.

DISCLAIMER: The cited material pertains primarily to Arizona statute and law; however, many states have similar victim rights laws. Additionally, this fact sheet is intended to share **model practices** in this area. Below are some examples to consider when navigating the capital litigation process, regardless of jurisdiction.

### MODEL PRACTICE CHECKLIST (BEGINNING OF A CASE)



- ☐ Meet with victim/survivors in person before filing a Notice of Intent to Seek the Death Penalty outlining aggravating circumstances supporting its decision.[1] Set expectations and explain role of prosecutor. Ask questions about position on capital punishment. Recommend counseling resources if requested.
- ☐ Learn about the victim: Learn about the victim and their life to better understand the impact of the crime on their loved ones.
- ☐ Respect survivors' views on the death penalty: some survivors may not support the death penalty; treat them with the same respect as those who do. Be aware of possible differences among family members about capital punishment and how to address these differences.
- ☐ Be transparent and clear about expectations when dealing with victims and their families. Be transparent about the trial and appeal process.
- ☐ Discuss mitigation and discovery phases, privacy issues, victim rights to refuse a defense interview, Brady material.
- ☐ Maintain some distance from survivors: While it is essential for prosecutors to be empathetic and supportive, they should also maintain some distance to avoid any appearance of bias.
- ☐ Work with victim advocates and attorneys to facilitate timely communication and in-person meetings.

## *MODEL PRACTICE CHECKLIST (BEGINNING OF A CASE, CONT'D)*



Explain: Victim Rights Statutes

Ensure these areas are covered:

- ☐ Notice of Intent to Seek Capital Punishment and preliminary hearing on aggravation factors ("*Chronis*" hearing)
- ☐ Mitigation Process
- ☐ Phases of a capital trial and limits on victim allocution (guilt, aggravation, penalty)
- ☐ Direct and collateral appeals
- ☐ Timeline for execution

[1] Ariz. R. Crim. P. 15.1(i)(1)(A) & (B).