

USING ETHICS AND COMMUNICATION DURING SOCIAL REFORM

Fact Sheet



VICTIM-CENTRIC MODEL PRACTICES FOR PROSECUTORS

Change is constant, and a widespread social movement is actively generating change in our cultural and social institutions. The criminal justice system is both a core target and a necessary participant in this drive for equitable and responsible change. This presentation, *Using Ethics and Communication During Social Reform*, discusses both the commitment to prosecutorial professional ethics and the model practices that can assist prosecutors in building mutual trust and respect with survivors/ victims. Learning from history while generating societal confidence in a changing criminal justice system is a realistic goal, the action plan begins with each of us.

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

Planning ahead can provide a realistic and organized approach to survivor/victim expectations and information. It's difficult to share what may be painful information and having "tools" helps considerably. In planning and preparation, be aware of and accommodate for language barriers.

- ☐ A comprehensive schematic or flowchart handout of your jurisdiction's case flow with realistic timelines from beginning to end, including appeals is extremely helpful.
- ☐ A handout of Victim Rights that covers all the basics in your jurisdiction. Include statutory reference and the contact information for victim rights complaints.
- ☐ A handout of common criminal justice system terms and hearings with Layman definitions.
- ☐ Contact information should be provided for both prosecutor and advocate – a business card with phone contact information is sufficient. Helpful, is listing best times to call on the back of the card.
- ☐ Include your advocate in the planning process.
- ☐ Keep track of property retention – set up a system if needed. Lost victim personal property is devastating to survivor/victims.
- ☐ Employment transfers happen - prepare victims when possible. If it's not possible for you to follow through with information, help your department/division set up a transfer notification system. Feeling left in the dark can be additional trauma and may bring sense of abandonment for a victim.

MODEL PRACTICE CHECKLIST (CONT'D)

Building trust and inclusion is important for you and the survivor/victim. These are model practice tasks and communication reminders that make a positive difference in how a victim may see/support you and the criminal justice system.

- ☐ Schedule meeting(s) with advocate and victim survivors.
- ☐ Project/demonstrate honesty, respect, and dignity to the victim.
- ☐ Promise only what you can guarantee.
- ☐ Consistently provide updates to victims before a hearing and afterwards if they are unable to attend. Advocates may be especially helpful with relaying information.
- ☐ Communicate with an understandable vocabulary. Legal language can be very difficult to understand and asking questions can be embarrassing – too often victims walk away from a meeting being even more confused with the system. This can be challenging and is well worth the effort.
- ☐ If the death penalty is/is not on the table, explain that to the victim.
- ☐ If a plea is always an option, explain and discuss that with the victim.
- ☐ If a plea is offered by either you or a defense attorney, alert the victim ASAP, with details of the plea, including if restitution is noted in the plea. Providing something in writing can also be important, victims need time to read and reread.
- ☐ Acknowledge social history if the topic arises – confront that you're working to promote equitable change. Don't ignore it, they're telling you they're fearful, even when it sounds like anger.
- ☐ Help a victim understand the reasons for a plea. Victims who understand complications in the case are better able to accept a plea.
- ☐ Tell the judge if victim(s) disagree with a plea, even when you're moving forward with it.
- ☐ Never tell a judge you've complied with Victim Rights, if you haven't. Nothing will repair the breach of trust created. Remember, notification is not the only right. Did you confer, do they know they can address the court and when, were they treated with dignity and respect, etc.?
- ☐ Prepare the victim for continuations. For especially long ones an explanation should always be provided.
- ☐ Keep a schedule for updates – include advising victim advocate of updates as they may be able to assist with information provided to the victim. During long delays, this is especially important. Updates encourage participation and demonstrate respect.

MODEL PRACTICE CHECKLIST (CONT'D)

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Stay in contact with victim/survivor while the case is in process and in appeals. A simple email lets them know you're still there or a new prosecutor is assigned.

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Practice listening before responding. Paying attention is critical and being dismissive or invalidating is quickly and negatively noted.

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Be accountable for what you say – verbal mistakes can be made and stopping and correcting the error frees one to move forward, developing trust.

You may hear the word closure often; remember you are not responsible for closure. "I will do my best as the prosecutor in this case, I cannot guarantee there will be no continuing legal issues." Explain that – it's honest and respectful. Grief has no timeline and unrealistic expectations do not help. You are not empowered to turn back time, you and your advocate can be supportive and offer resources that may assist in the victim/survivor's personal journey toward acceptance and peace.