

CRIME VICTIMS' RIGHTS

Attorney General Standards to Ensure the Rights of Crime Victims

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TO: ALL LAW ENFORCEMENT OFFICERS

FROM: Attorney General Robert J. Del Tufo

DATE: April 28, 1993

SUBJECT: Attorney General Standards to Ensure the Rights of Crime Victims

PURSUANT TO THE CRIMINAL JUSTICE ACT OF 1970, N.J.S.A. 52:17B-97 ET SEQ. AND THE PROVISIONS OF N.J.S.A. 52:4B-44a. AND b., IT IS HEREBY DIRECTED THAT ALL NEW JERSEY LAW ENFORCEMENT OFFICERS SHALL FOLLOW THE ATTACHED STANDARDS TO ENSURE THE RIGHTS OF CRIME VICTIMS, AND ALL LAW ENFORCEMENT AGENCIES SHALL ADOPT, AS PRESCRIBED, SUCH STANDARDS AS AGENCY POLICY AND PROCEDURE.

Foreword

Victims are the people behind crime statistics. They are the individuals who suffer the injuries inflicted by criminals and who reveal the existence of crime when they report it. Victims are the key to apprehending criminals and the justification for the State's subsequent prosecution.

Unfortunately, there are many problems, inequities and inconveniences that victims and witnesses encounter when they become involved in the criminal justice system. These problems

exist in every jurisdiction in the State. Leaving aside the direct consequences of the crime itself and considering only the victim's subsequent involvement with the criminal justice system, the following are examples of the problems faced by many crime victims:

Official indifference concerning retrieval of stolen property and advice about victim compensation;

Insensitive, perfunctory questioning;

Uncomfortable and insecure accommodations at the police station or in the courthouse, often involving close proximity to defendants;

Lack of clear, lay explanations of proceedings and decisions during and after the case;

Fear resulting from real or imagined intimidating threats and acts by defendants;

Lack of specific procedures to assist special victim populations (i.e., elderly, children, victims of bias incidents).

Aside from the problems above, there are many more. While there are no quick remedies, the time has come after twenty-five years of judicial decisions and statutory enactments fully implementing the constitutional rights of the criminal defendants for the rights of crime victims to receive practical implementation. Many changes in criminal justice over the past two and a half decades which have benefited defendants have come about through the diligent efforts of law enforcement officials. Now, the law enforcement officials need to be equally conscientious and effective in working to assist victims and witnesses.

In an effort to balance the scales of justice, on November 3, 1991, the citizens of New Jersey voted to amend article 1 of the New Jersey State Constitution. Pursuant to the amendment crime victims are entitled to be treated with fairness, compassion and respect by the criminal justice system and to be present at public judicial proceedings when not sequestered.

In addition to the amendment, several statutes have been passed and enacted that enhance the ability of crime victims to actively participate in the criminal justice process.

"Victim" means a person who suffers personal, physical or psychological injury or death or incurs loss of or injury to personal or real property as a result of a first, second, third or fourth degree offense committed against that person; or as a result of a motor vehicle accident involving another person's driving while under the influence of drugs or alcohol; or as a result of a bias incident, domestic violence or a motor vehicle violation involving a fatality.

Witnesses to the above aforementioned crimes and homicide and sudden death survivors are also entitled to the rights and services contained herein, as applicable.

The Advisory Committee recognized that the Standards will place an increased burden on law enforcement agencies and that existing resources are limited. Therefore, priority shall be given to victims and witnesses of personal crime in rendering the rights and services contained herein. Victims of property crimes shall receive the prescribed services as contained herein, as feasible.

These Standards are to be reviewed annually so that necessary amendments can be made to ensure that the continued acceleration of enhanced services be provided to crime victims.

PART ONE: Victim Rights and Services During Criminal Investigations

The provisions of Part One are applicable to all law enforcement agencies. County Victim-Witness Coordinators shall be responsible for ensuring the implementation of victim-witness rights within their county pursuant to the provisions of N.J.S.A. 52:4B-45b.

I. INFORMATION

A. In-person death notification shall be made to next of kin.(1)

1. Notification of the next of kin should occur as soon as possible after the death is discovered and the victim's identity is determined.

2. To the extent possible, two officers should be used to effectuate the in-person notification, and one of them should be in uniform.

3. If the above is not possible, a police officer should secure the accompaniment of a neighbor, relative or friend, clergy or the County Victim-Witness Coordinator, when possible, to effectuate the two-person notification.

4. The identity of the deceased and/or the facts and circumstances concerning the death should be provided to the next of kin prior to release to the media.

5. The County Prosecutor's Homicide or Major Crimes Unit should notify the County Victim-Witness Coordinator of all sudden deaths as soon as possible.

COMMENTARY

It is recommended that each law enforcement agency develop a standard operating procedure (s.o.p.) regarding in-person death notification. This s.o.p. should include the agency's procedure for multi-jurisdictional contact.

It is also recommended that the Basic Recruit and In-Service training curriculum approved by the Police Training Commission include a performance objective and resource material pertaining to the death notification process and the Revised Homicide and Sudden Death Survivor Guidelines. This curriculum should make reference to the recommended s.o.p. at the local level.

It is further recommended that County Prosecutors issue an official memorandum to those charged with investigating homicides and sudden deaths that requires them to notify the County Victim-Witness Coordinator of homicide and sudden deaths as soon as possible.

B. Victims should be provided with information about compensation⁽²⁾ and the criminal justice process.⁽³⁾

1. Brochures describing the criminal justice process and providing victim rights information shall be displayed in police stations.

2. Case specific explanation of system and process shall be provided.

3. Information shall be provided on the status of any property stolen or removed as well as procedures and regulations governing property return.

4. Every police department shall, upon filing a report of a violent crime, make available to any victim information concerning crime victims' compensation.

5. Every State, county and municipal police department shall have available, and shall post in a public place, informational booklets, pamphlets or other pertinent written information to be supplied by the Violent Crimes Compensation Board (VCCB) relating to the availability of crime victims' compensation including all necessary application blanks required to be filed with the Board.

COMMENTARY

It is recommended that a standard operating procedure (s.o.p.) be developed entitled the "Victim Information Process" which identifies which officers will provide what information to which victim(s) and when.

It is further recommended that the Basic Recruit and In-Service training curriculum approved by the Police Training Commission include resource material on the Violent Crimes Compensation Board (VCCB).

The State Office of Victim-Witness Advocacy is charged with the responsibility of developing a brochure describing the criminal justice process for victims and witnesses and distributing it to all law enforcement agencies in the State.

C. Procedures shall be established to ensure that victims are periodically informed of the status and closing of investigations.(4)

1. Victims shall be advised of any arrest and pre-trial release as soon as possible.

COMMENTARY

Every victim of violent crime should be provided with certain basic information shortly after the

crime is reported either by mail or through personal contact. The victim should be informed of the name of the investigator in charge of the case and how to reach him/her, the case number or other department data retrieval information and when the case has been reassigned to a different investigator.

Upon the arrest of an offender for the commission of an offense, the arresting police agency should immediately notify, by telephone or by personal contact, the victim of the apprehension and detention of the offender. If the arrest of the offender occurs in a municipality other than the location of the offense, the investigating police agency should immediately notify, by telephone or by personal contact, the victim of the apprehension and detention of the offender.

When an investigation is closed without an arrest, the victim should be so informed.

The arresting/investigating police agency should notify the victim of the pre-trial release of the offender. Notification should be provided as follows:

Immediate telephone notification, upon release of an offender, to victims of the crimes of or relating to Homicide, Arson, Robbery, Domestic Violence, Death by Auto, Aggravated Assault, Sexual Offenses, Child Abuse or attempts to commit said offenses.

Telephone notification within forty-eight (48) hours, upon the release of an offender, to victims of all other offenses.

Upon arrest and the signing of a warrant complaint (CDR-2), the arresting/investigating police officer should complete a victim-witness information form. (See Appendix A-1.)

When ROR bail is established prior to the offender's confinement in the county jail, the arresting/investigating police agency should provide notification to the victim of the offender's release. Said notification should include any associated conditions of the release.

When the offender is confined to the county jail, the arresting/ investigating police officer should submit the victim-witness information form to the county jail with a copy of the complaint. The arresting/investigating police agency should retain a copy of the victim-witness information form.

The county jail staff should in turn provide a copy of the victim-witness information form to the

County Victim-Witness Coordinator. Jail staff should retain a copy of the victim-witness information form.

If the release occurs during regular business hours, the county jail staff should immediately notify the County Victim-Witness Coordinator of the impending release of the designated defendant. The Office of Victim-Witness Advocacy should then notify the victim by telephone as well as the arresting/investigating police agency of the release.

If release occurs during nights, weekends and holidays, the county jail staff should immediately notify the arresting/investigating police agency of the impending release of the designated defendant. The arresting/investigating police agency should then notify the victim as soon as is reasonably possible. Telephone notification to the victim or a responsible member of the victim's household should be deemed sufficient. Where telephone contact is not feasible, the arresting/investigating police agency should take reasonable action under the circumstances to make personal notification. Where the arresting/investigating police agency has been unable to effect notification, the agency should inform the County Victim-Witness Coordinator promptly on the next business day. The Victim-Witness Coordinator should then be responsible for prompt notification to the victim.

Where the arresting/investigating agency is responsible for notification to the victim, the officer who made the initial contact with the victim should, whenever possible, be designated to provide notification to the victim of the defendant's release from custody.

Upon verification of the escape of a defendant from the custody of the county jail or the return of an escapee to confinement in the county jail, notification of the escape or return to custody of the defendant should be provided to the victim as specified above.

D. Motor vehicle crashes/accidents involving death or serious bodily injury shall be reported to the County Prosecutor including the name, address and telephone number of the victim, or in case of death, the victim's next of kin.(5)

II. TREATMENT

A. Immediate emergency referral capability shall include assistance with securing:

- medical care
- medical health care

- shelter
- relocation
- food
- clothing
- child care

1. The victim must receive immediate medical care for injuries. If the victim requests medical attention, it shall be provided through:

- on-site first aid
- transport to medical facility
- call for ambulance

2. Crisis intervention counseling should be provided through the use of 24-hour hotlines, emergency psychiatric services and victim assistance agencies.

3. In non-emergency situations, referrals should be made to the appropriate County Office of Victim-Witness Advocacy.

4. All police departments/stations should maintain a current social service resource directory for referral.

COMMENTARY

It is recommended that the Basic Recruit Course and In-Service training curriculum approved by the Police Training Commission include performance objectives and resource material pertaining to State and local resources that provide the above-stated services. The curriculum should also ensure that law enforcement officials are sensitive to the needs of victims and are informed, knowledgeable and supportive of existing laws, services and programs for victims.

County Victim-Witness Coordinators and the 24-hour victim-witness hotline of the Violent Crimes Compensation Board can also provide resource information on the above-stated services.

B. Victims should be accompanied to line-ups, photo review sessions, body identifications and medical examinations required for evidence.

C. Victim interviews shall be conducted in as secure, private and pleasant surroundings as are available.

D. The victim shall be allowed to use the telephone at the police station.

E. When possible, an interpreter should be made available where the victim does not speak English or is hearing impaired.

COMMENTARY

It is recommended that law enforcement personnel utilize available community resources (i.e., the victims' family, friends or neighbors, nonprofit organizations, volunteers, churches, etc.) to provide translators to assist victims to cooperate with law enforcement.

The Violent Crimes Compensation Board has a statewide listing of volunteer interpreters which is available from its 24-hour victim-witness hotline.

F. Procedures shall be established to ensure that initial medical examinations required for evidence in sexual assault cases (i.e., rape kit exams) are paid for directly by the County Prosecutor's Office. The County Prosecutors should seek reimbursement to the extent possible from the Violent Crimes Compensation Board.

G. Victims of sexual assault or other criminal acts involving a risk of transmission of disease shall be assisted, advised and/or counseled or referred for advice or counseling on the availability of medical testing and other available services including but not limited to compensation from the Violent Crimes Compensation Board for the cost of such testing, counseling and care.(6)

COMMENTARY

The County Prosecutors should implement procedures whereby the initial medical examination of a sexual assault victim, in which samples are taken from various areas of the victim's body for evidentiary purposes, is paid for directly by the Prosecutor's Office. Hospital personnel should be instructed to send this bill directly to the County Office of Victim-Witness Advocacy. If the bill does not meet the \$100.00 minimum loss required by the provisions of N.J.S.A. 52:4B-18d., the Prosecutor's Office should absorb it. If it exceeds that minimum, the Prosecutor's Office should submit the bill to the Violent Crimes Compensation Board for reimbursement. If the Prosecutor's

Office concludes that additional medical or psychiatric evidence is required, the Prosecutor's Office should pay for such examination. Any other bills related to medical or psychiatric care for the victim are to be sent directly to the victim; however, the victim is to be assisted by the County Office of Victim-Witness Advocacy in submitting such bills to the Violent Crimes Compensation Board.

H. Every effort shall be made to minimize inconvenience to the victim.

1. Whenever possible, appointments shall be scheduled at the convenience of the victim.

2. Victims and witnesses shall not be forced to wait for long periods of time to be interviewed.

3. Whenever possible, limits should be placed upon the number of times the victim must repeat the facts surrounding the offense.

4. All victims should have sufficient time to relate the facts of the incident as s/he knows it.

I. When possible, property return should be accomplished within 30 days of recovery by law enforcement unless evidentiary requirements prohibit it (not applicable to firearms or contraband).

COMMENTARY

Law Enforcement Chief Executives should designate an individual within their agency who is charged with the responsibility of knowing or checking up on the location and status of the property in custody. The designated officer should check on the status of prosecution for the particular case and obtain permission to return the property.

J. Where applicable and upon verbal or written request, accident reports and autopsy reports shall be made available to the victim (or in the case of death, the victim's next of kin) as soon as these reports become available.(7)

1. Disclosure of records in juvenile cases are to be made pursuant to the provisions of N.J.S.A. 2A:4A-60 et seq.

III. PROTECTION

A. Appropriate attention shall be given to investigating victim reports of threats or intimidation and these reports shall be promptly forwarded to the County Prosecutor's Office.

1. Victims and witnesses should be encouraged to report any incident of intimidation and harassment.
2. Victims should be informed of potential responses to intimidation including bail revocation, restraining orders, additional charges and the availability of an escort to court.
3. When applicable, restraining orders should be sought as a condition of bail and prepared with the complaint.

COMMENTARY

Law enforcement officers should treat threats and acts of intimidation with sensitivity and concern. Officers should respond to and investigate these reports promptly. It is recommended that a written report be prepared when warranted upon a victim or witness complaining of intimidation and the victim be referred to the County Victim-Witness Coordinator. A written report may serve to document a pattern of intimidation that may be used at trial or at sentencing.

It is recommended that Section A-2 above be included in the aforementioned recommended standard operating procedure (s.o.p.) entitled the "Victim Information Process" at the local agency level.

PART TWO: Victim Rights and Services During Prosecution

The provisions of Part Two are applicable to all local, county and State law enforcement agencies, and the State Parole Board. County Victim-Witness Coordinators shall be responsible for the implementation of victim-witness rights within their county pursuant to the provisions of N.J.S.A. 52:4B-45b.

I. INFORMATION

A. Communication to orient victims and witnesses to the criminal justice process shall commence at the same time the case is reported to the Prosecutor's Office and shall continue throughout the entire prosecution process.

1. Information concerning directions, parking, courthouse and courtroom location, transportation and how to obtain witness fees shall be made available to victims and witnesses in an introductory letter.

2. A pamphlet which provides a general description of the prosecutorial process and the victim's and witness's role must be forwarded to the victim or witness with an introductory letter.

3. Orientation information about prosecutorial procedure should be provided through verbal communications.

4. Re-enactments and courtroom walk-throughs shall be provided for victims with special needs and for all child victims and witnesses.

COMMENTARY

Victim/witness cooperation can be strengthened by providing advance explanation to victims and witnesses of what may be expected of them throughout the process and why the system requires this. Explanation of minor benefits such as parking privileges, transportation and witness fees may also give the victim and witness the feeling that the system has not overlooked their needs.

The State Office of Victim-Witness Advocacy is charged with the responsibility of developing a brochure about the criminal justice process for victims and witnesses and distributing it to all law enforcement agencies in the State.

B. The Notification System shall consist of a series of form letters which correspond to each significant phase of criminal prosecution. The events listed below represent the minimum notifications that must be provided to all victims and witnesses and a designated survivor of a homicide victim regarding case status. Law enforcement officers who are case witnesses should be provided with notification as to disposition, as applicable. Notifications on juvenile cases shall be made as applicable and pursuant to the provisions of N.J.S.A. 2A:4A-60 et seq.

1. Initial contact or introductory letter that informs the victim or witness that the case has been referred to the Prosecutor's Office, and explains and offers the services available from the County Office of Victim-Witness Advocacy.
2. Written Impact Statement to Prosecutor prior to formal charging decision.
3. Pre-grand jury remand.
4. Administrative dismissal.
5. Grand jury remand.
6. Grand jury dismissal (no bill).
7. Indictment returned (true bill).
8. Acceptance into Pre-Trial Intervention Program.
9. Termination from or completion of Pre-Trial Intervention Program.
10. Negotiated plea on all charges.
11. Release on bail/conditions of bail.
12. Fugitive status.
13. Court dismissal.
14. Sentencing date.
15. Sentence imposed on the defendant by the court.
16. Written or In-person impact statement to court prior to sentencing.
17. Defendant's filing of an appeal and subsequent status changes.
18. Disposition on all charges.
19. Mistrial/retrial.
20. Mistrial/dismissal.
21. Other unique or special occurrences.

C. Victims shall be promptly notified of the right to submit a written statement to a representative of the county prosecutor's office about the impact of the crime prior to the prosecutor's formal charging decision.

D. Notification of case status regarding child abuse should be made to an appropriate, designated parent, guardian or caretaker and, if applicable, to the Division of Youth and Family Services.

For notification purposes, the Prosecutor's Office should identify when a victim or witness is a child on all official paperwork to prevent notification from being sent directly to the child.

E. Five business days advance notice of trial and sentencing dates shall be given to all victims whether or not their presence is required.

F. Victims shall be advised of their right to be present at all public judicial proceedings when not sequestered, including sentencing hearing.

G. Victims shall be advised of their right to give an impact statement in-person prior to sentencing before the sentencing court.

H. Victims shall be advised of their right to submit a written impact statement for inclusion in the presentence report.

I. Victims shall receive assistance in submitting impact statements to the Prosecutor and or the sentencing court.

J. Victims of acts committed by defendants convicted of 1st or 2nd degree crimes or the nearest relative of a murder victim as appropriate, who was previously contacted by the parole board and who indicated his intention to testify at the parole hearing, shall be notified by the board panel of the opportunity to testify or submit written impact statements at the hearing.

If the victim or family member in the case of a murder victim choose not to testify personally at the hearing, the victim or relative may elect to present testimony to a senior hearing officer designated by the board panel.(8)

K. The victim, or the next of kin if the victim is deceased, shall be notified of any determination to seek or decline prosecution in motor vehicle crashes/accidents involving another person's driving while under the influence of drugs or alcohol.(9)

L. After disposition of the case, victims should be notified as soon as possible of a defendant's release from custody and any associated conditions of that release.

COMMENTARY

It is recommended that the following agencies implement procedures as follows:

State Parole Board

Upon receipt of a victim registration form, the State Parole Board should send an

acknowledgment letter to the victim with a copy to the County Prosecutor's Office. (See Appendix A-2.)

When a parole release decision is rendered in the case of State, county or juvenile inmate sentenced by the Superior Court, the State Parole Board should provide notification to the appropriate County Prosecutor's Office within fifteen (15) working days of that decision.

When a parole release decision is rendered in the case of any inmate for whom there was received a victim input registration form, the State Parole Board should notify the registered victim within fifteen (15) working days of that decision. A copy of such notification should, at the same time, be forwarded to the appropriate County Prosecutor's Office. (See appendix A-3.)

The State Parole Board should notify a registered victim of the filing by an inmate of a petition for executive clemency within thirty (30) days of receipt of the petition. (See Appendix A-4.)

Upon receipt of the Governor's decision concerning an inmate's application for executive clemency, the State Parole Board should notify the registered victim of the decision within ten (10) working days. A copy of such notification should, at the same time, be forwarded to the appropriate County Prosecutor's Office.

Upon receipt of notification from the Department of Corrections of the release of an inmate for any reason other than parole, the State Parole Board should, within ten (10) working days, notify the registered victim of the inmate's release. (See Appendix A-5.)

Notification as required in the above sections should also be provided to homicide and sudden death survivors who have registered with the State Parole Board.

State Department of Corrections

The State Department of Corrections should, in the case of inmates committed to the custody of the Department of Corrections, notify the appropriate County Prosecutor's Office of the pending release of an inmate due to the expiration of sentence. The notice should include the projected expiration date and a copy of said notice should, at the same time, be forwarded to the State Parole Board. (See Appendix A-6.)

a.) In the case of inmates confined in State correctional facilities, the Department should forward

notice of the projected expiration date within thirty (30) days in advance of said date.

b.) In the cases of State inmates confined in county jail facilities, the Department should forward notice of the projected expiration date within three (3) days of being notified by county jail staff of the expiration date.

The State Department of Corrections should, in the cases of inmates committed to the custody of the Department of Corrections, notify the appropriate County Prosecutor's Office of the intended release from custody of an inmate for any reason other than parole. Notice should be provided prior to release of the inmate. A copy of said notice should be provided to the State Parole Board. (See Appendix A-6.)

The Department of Corrections should immediately notify the appropriate County Prosecutor's Office by phone upon verification of the escape of an inmate from the custody of the Department of Corrections. The notification of escape should include the indictment number, the arresting/investigating agency, the name of the victim and the victim's residence as may be recorded in the pre-sentence investigation report.

County Prosecutor's Offices should provide the Department of Corrections with alternate telephone numbers in order that notification requirements may be complied with in the cases of weekend and night escapes.

The Department of Corrections should immediately notify the appropriate County Prosecutor's Office by phone upon the return of an escapee to the custody of the Department of Corrections.

County Jail Wardens

The Chief Executive Officer of a County Jail should, in the cases of inmates committed to the County Jail by the Superior Court, notify the County Prosecutor's Office of pending release of an inmate due to the expiration of sentence. Such notice should include the projected expiration date and should be forwarded fifteen (15) days in advance of the projected expiration date. (See Appendix A-7.)

The Chief Executive Officer of a County Jail should, in the cases of inmates committed to the County Jail by the Superior Court, notify the County Prosecutor's Office of the intended release from custody of an inmate for any reason other than parole. Notice should be provided prior to release of the inmate. (See Appendix A-7.)

The Chief Executive Officer of a County Jail should immediately notify the County Prosecutor's Office by telephone upon verification of the escape of any inmate committed to the County Jail by Superior Court. The notification of escape should include the indictment number, the arresting/investigating agency, the name of the victim and the victim's residence as may be recorded in the pre-sentence investigation report.

County Prosecutors' Offices should provide the Chief Executive Officer of a County Jail with alternate telephone numbers in order that notification requirements may be complied with in the cases of weekend and night escapes.

The Chief Executive Officer of a County Jail should immediately notify the County Prosecutor's Office by telephone upon the return of an escapee to custody.

County Juvenile Detention Center Wardens

The Warden of a County Juvenile Detention Center should notify the appropriate County Prosecutor's Office of the pending release of a juvenile due to the expiration of sentence. Such notice should include the projected expiration date and should be forwarded fifteen (15) days in advance of the projected expiration date. (See Appendix A-8.)

The Warden of a County Juvenile Detention Center should notify the County Prosecutor's Office of the intended release from custody of a juvenile for any reason. Notice should be provided prior to the release of the juvenile. (See Appendix A-8.)

The Warden of a County Juvenile Detention Center should immediately notify the County Prosecutor's Office by telephone upon verification of the escape of a juvenile from the facility. The notification of escape should include the juvenile complaint number, the arresting/investigating agency, the name of the victim and the victim's residence if available.

County Prosecutors' Offices should provide to Wardens alternate telephone numbers in order that notification requirements may be complied with in the cases of weekend and night escapes,

The Warden of a County Juvenile Detention Center should immediately notify the County Prosecutor's Office by telephone upon the return of the escapee to custody.

Notification as required in the above sections should be provided in the cases of juveniles committed to said facilities upon adjudication of delinquency for an offense that if committed by an adult would constitute a crime.

County Prosecutors

Upon receipt of public notice, issued by the State Parole Board, of inmates eligible for parole consideration, the County Prosecutor's Office should notify a victim of the inmate's eligibility for parole consideration when the victim is not eligible to submit a victim input registration form to the Parole Board. Such notice should be provided to the victim within five (5) working days.

Upon receipt of a parole release decision from the State Parole Board, the County Prosecutor's Office should, within five (5) working days, notify those victims who were ineligible to register with the Parole Board of the Board's decision. (See Appendix A-9.)

The County Prosecutor's Office, upon receiving notice from the Department of Corrections of the escape of an inmate committed to the custody of the Department of Corrections, should inform the victim of the escape by telephone within twenty-four (24) hours. If there is no telephone access to the victim, the County Prosecutor's Office should contact the appropriate Municipal Police Department in order that the police may inform the victim of the inmate's escape. Police notification, when necessary, should occur within twenty-four (24) hours.

Upon receipt from the Department of Corrections or the Chief Executive Officer of a County Jail or Juvenile Detention Facility of the projected release date of an inmate due to expiration of sentence, the County Prosecutor's Office should notify the victim of the pending release within five (5) working days. (See Appendix A-9.)

Upon notification from the Department of Corrections or Chief Executive Officer of a County Jail or Juvenile Detention Facility of the release of any inmate, for any reason other than parole, the County Prosecutor's Office should notify the victim within five (5) working days. (See Appendix A-9.)

Upon receipt of notification that an inmate has submitted a petition for Executive Clemency, the County Prosecutor's Office should notify the victim of the petition. (See Appendix A-9.)

II. TREATMENT

A. Crime victims shall be treated with fairness, compassion and respect by the criminal justice system. Every effort shall be made to minimize inconvenience to the victim.

1. Victim interviews shall be conducted in private surroundings.
2. Whenever possible, limits should be placed upon the number of times the victim must repeat the facts surrounding the offense.
3. Victims must not be forced to wait for long periods of time to be interviewed or to testify.
4. Whenever possible, appointments should be scheduled at the convenience of the victim.
5. On-call subpoenas should be used. Victims and witnesses should be instructed on the subpoena form to telephone a designated person in the County Prosecutor's Office 24 hours in advance of time and date on subpoena to reduce unnecessary trips to the courthouse and waiting time.
6. A separate, comfortable waiting area monitored by the County Victim-Witness Coordinator should be provided so that a victim or witness does not have to confront the defendant, defendant's family and friends, defense counsel or defense witnesses. Magazines, newspapers, refreshments and toys for children should also be available.
7. Complimentary parking should be made available to victims and witnesses who are requested to appear. If necessary, this service should be arranged with a parking facility located within the immediate area of the courthouse. Payment arrangements with the parking facility should be negotiated in advance or the victim or witness should be reimbursed for costs incurred.
8. Reasonable reimbursement for use of public transportation and/or cab fare should be provided upon request when the victim's appearance in court is required.
9. Travel and lodging arrangements and expenses for out-of-state witnesses should be provided by the Prosecutor's Office when their appearance in court is required.

COMMENTARY

The Assistant Prosecutor and Basic Detective and Investigator training curriculum should contain information and teaching strategies to ensure that prosecutors and investigators are sensitive to the needs of victims and are informed, knowledgeable and supportive of existing laws, services and programs for victims.

B. Property retained for prosecution should be returned as soon as possible but not later than 45 days of the judgment of conviction unless evidentiary requirements pertaining to an appeal prohibit it (not applicable to firearms and contraband).

COMMENTARY

Victims should not have to battle the justice system to get their property back or wait for months or years for its return. There are, of course, some items that will have particular evidentiary significance because of their character or condition and these must be retained. Other items, however, can be presented to the jury just as effectively by photograph. Prosecutors should recognize their responsibility to release property as expeditiously as possible, to take the initiative in doing so, and to establish the procedures necessary to bring this about.

C. Prosecutors and the courts should take any appropriate action necessary to provide a speedy trial in a matter in which a child 13 years of age or younger is a victim.(10)

D. Prosecutors should attempt to provide a speedy trial in all cases involving victims of violent crime.

1. Prosecutors should attempt to limit case continuances. When such delays are necessary, practices should be established which promote continuance dates that are convenient to victims and witnesses; that those dates are secured in advance; and that the reasons for the continuances are adequately explained to the victim.

COMMENTARY

Continuances can result in the ultimate unavailability of some witnesses and the fading memory of others. Prosecutors should oppose continuances except when they are necessary for the accomplishment of legitimate investigatory procedure, trial tactic or to accommodate the scheduling needs of victims. Whenever possible, it should be determined in advance if a continuance is to be granted and the victim should be informed.

E. Where practical, restitution requests should be made routinely by the prosecutor based on interviews with the victim.

1. Restitution to the victim should be sought wherever appropriate as part of the plea agreement and/or at the sentencing proceeding. In addition, restitution should be sought in connection with applications for pre-trial intervention.

F. Crime victims shall have the right to submit a written statement about the impact of the crime to a representative of the county prosecutor's office which shall be considered prior to the prosecutor's final decision concerning whether formal charges will be filed.

Nothing contained herein should be construed to alter or limit the authority or discretion of the prosecutor to enter into any plea agreement which the prosecutor deems appropriate.

G. Crime Victims shall have the right to submit prior to sentencing an in-person statement directly to the sentencing court concerning the impact of the crime. This statement shall be made in addition to the statement permitted for inclusion in the presentence report by N.J.S. 2C:44-6.

H. Crime victims shall receive assistance in submitting a written statement to a representative of the county prosecutor's office about the impact of the crime prior to the prosecutor's final decision concerning whether formal charges will be filed.

I. When appropriate, the views of victims of violent crime should be brought to the attention of the court on bail decisions, continuances, plea agreements, dismissals, sentencing and restitution. Practices should be established that promote opportunities for victims to make their views on these matters readily known.

COMMENTARY

The court shall sentence a defendant to pay restitution in addition to a sentence of imprisonment or probation that may be imposed if: the victim, or in the case of a homicide, the nearest relative of the victim, suffered a loss; and the defendant is able to pay or, given a fair opportunity, will be able to pay restitution.(11)

Prosecutors should inform victims of the availability of restitution, and ensure that the court is made aware of the victim's losses so that a restitution order is accurate and inclusive. Prosecutors

should consider the issue of restitution for the victim in charging and plea negotiation decisions which may affect the amount of restitution the court can order.

It is recommended that prosecutors consult with every victim of violent crime, explaining how the plea negotiations process operates, what negotiating posture the prosecution has adopted and why that posture was chosen. Prosecutors should always attempt to take into account the victim's views before reaching a final decision. Victims legitimately view the resolution of and sentencing in a case as an evaluation of the harm done to them.

Whenever the prosecutor considers the dismissal of a case involving violent crime, the victim should be consulted in advance and told the reasons for the prosecutor's decision.

Victims should be allowed to convey the information that they possess to the judge that will determine case outcomes. The prosecutor is in the best position to ensure that the victim is accorded a proper role in the criminal justice system.

J. All prosecutors and investigators should establish and maintain direct contact with their County Office of Victim-Witness Advocacy.

COMMENTARY

County Prosecutors' staff should make themselves aware of the victim-witness services that are available and ensure that victims are informed of them.

III. PROTECTION

A. Appropriate attention shall be given to investigating victim or witness reports of threats or intimidation.

1. Victims and witnesses shall be encouraged to report any incident of intimidation and harassment.

2. Victims should be informed of potential responses to intimidation including bail revocation, restraining orders, additional charges and escort to court.

3. When applicable, restraining orders should be sought as a condition of bail and prepared with the complaint.

4. Transportation and court accompaniment shall be provided for fearful or intimidated victims.

COMMENTARY

It is recognized that it may often be difficult to file charges of witness intimidation. There may be no identifiable perpetrator for harm directed at a victim or witness. But when a suspect is identified, prosecutors should charge and prosecute vigorously.

PART THREE: Special Victim Populations

Some victims will require special recognition, attention and treatment. These victims and standards are identified as follows:

I. CHILDREN

A. Notification of case status should be given first to the parent or caregiver who can assist in providing verbal notice to the child and decide what notice should be given.

B. Information should be given to children in language and detail appropriate to their age.

C. Every possible effort should be made to have the child accompanied by a parent, familiar person or victim advocate.

D. Referrals for services must be effected through parents to specially trained therapists with on-going support and follow-up with the same designated therapist.

E. Special attention should be given to discussing with a child victim how to respond to intimidation or threats.

F. Consideration should be given to the child's schedule.

G. in cases of sexual assault, victims under age 18 shall not have their names, identities or addresses appear on any public record as defined in P.L. 1963, C.73 (cc 47:14 et seq.) Records containing such information shall be confidential.

II. VICTIMS OF FAMILY VIOLENCE

A. Law enforcement's response to incidents of domestic violence should be in accordance with N.J.S. 2C:25-1 et seq. and county-wide and local departmental standard operating procedures (s.o.p.).

B. Victims should be advised at the earliest possible stage of the availability of shelters, legal services and counseling.

C. If the victim is out of the household and her safety is in question, her address should not be disclosed in the absence of a court order.

D. Victims shall be advised of the right to go to court and get a temporary restraining order against the offender.(12)

E. Victims have the right to file a criminal complaint against the offender.(13)

F. Victims shall be notified of bail reduction.(14)

G. Victims shall be notified when defendant is released on bail.

H. The victim's address shall be confidential and not disclosed to defendant.(15)

III. PERSONS WITH PHYSICAL, MENTAL OR COGNITIVE DISABILITIES

A. Wheelchairs and appropriate transportation should be made available when the victim or witness is required to appear.

B. Interpreters to deal with the deaf and trained counselors to deal with the mentally retarded, etc. should be made available so that the victim can describe the attacker or the event to the police; submit impact statement to agent of prosecutor before formal charging decision; submit victim impact statement for inclusion in pre-sentence report; make impact statement at sentencing; testify or submit impact statement at parole hearings where appropriate.

IV. ELDERLY VICTIMS

A. Transportation to police stations and courthouses should be provided or arranged when the victim is needed to give statements or to testify.

B. When necessary, wheelchairs should be made available.

C. Prompt and proactive assistance should be given with Violent Crimes Compensation Board applications.

D. Assistance should be provided with pre-sentence and parole impact statements.

E. All elderly victims should be encouraged to call the County Victim-Witness Coordinator if there is anything they don't understand or need help with.

F. When necessary, home visits should be provided to elderly victims by County Victim-Witness Coordinators.

V. HOMICIDE AND SUDDEN DEATH SURVIVORS

A. Law enforcement's response to incidents of homicide and sudden death should be in

accordance with the Revised Homicide and Sudden Death Survivor Guidelines, April 18, 1986.

B. In a municipal court case involving a Title 39 (motor vehicle or traffic laws) violation or any other case involving directly or indirectly a motor vehicle accident, the municipal prosecutor is to inform the municipal court judge in writing, during the initial appearance of a defendant before the court, of the death of any person resulting from the violation of the motor vehicle or traffic laws by the defendant or resulting from a motor vehicle accident which occurred during the violation of any other law by the defendant.(16)

VI. VICTIMS OF SEXUAL ASSAULT

A. Victims of sexual offenses shall be provided with printed information supplied by the Violent Crimes Compensation Board (VCCB) containing the location of rape crisis centers in all geographical areas throughout the State and instructing victims of sexual offenses that if a rape crisis center is not available in their immediate geographical area, the victim may contact the appropriate County Victim-Witness Coordinator. Unless the victim requires immediate medical attention, this printed information shall be personally conveyed to the victim of a sexual offense by a representative of the hospital or place of emergency care before a medical examination of the victim is conducted, or by a representative of the police department before the victim's statement is taken to afford the victim the opportunity to have assistance from the rape crisis center or County Victim-Witness Coordinator during these procedures.(17)

B. Prompt assistance shall be provided with Violent Crimes Compensation Board applications.

C. Pamphlets should be made available on AIDS and sexually transmitted disease.

D. In any case in which the victim of an act that would constitute aggravated sexual assault or sexual assault as defined in subsection a. or c. of N.J.S. 2C:14-2, the Office of Victim-Witness Advocacy in the Division of Criminal Justice or the county prosecutor's office involved in the case shall:

Notify the victim of the victim's right to obtain an approved serological test for AIDS (acquired immune deficiency syndrome) or HIV infection (infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS) and assist, or refer the victim for assistance, in obtaining such a test and appropriate counseling and medical care;

Notify the victim of the victim's right to obtain a court order requiring the perpetrator to submit to an approved serological test for AIDS (acquired immune deficiency syndrome) or HIV infection (infection with the human immunodeficiency virus or any other related virus identified as a probable causative agent of AIDS) in the event that such perpetrator is convicted or adjudicated delinquent; and

Communicate the request of a victim who wishes to seek an order compelling the perpetrator to submit to such a test to the prosecutor handling the case and advise or arrange for the victim to be advised of the results of any such test ordered; and

Assist the victim in making application for compensation for the costs of testing, counseling and medical care to the Violent Crime Compensation Board.(18)

E. Waiting time should be minimized in courthouses or police stations so as to reduce possible further contact with the accused.

F. Victims of sexual assault under the age of 18 shall not have their names, identities or addresses released or contained in public records.(19)

VII. VICTIMS OF RACIAL, RELIGIOUS OR ETHNICALLY MOTIVATED ACTS

A. Victims shall be provided with information about the criminal justice process.

B. Brochures about the criminal justice process and victims rights information shall be displayed in the police station.

C. Face to face case specific explanation of system and process shall be provided.

D. Victims shall be provided with information about victim compensation.

E. Procedures shall be established to ensure that victims are periodically informed of the status closing of investigations.

F. Victims shall be advised of any arrest, bail and pre-trial release as soon as possible.

G. Information shall be provided on the status of any property stolen or removed as well as procedures and regulations governing property return.

TREATMENT

A. Accompaniment to line ups, photo review sessions, body identification and medical examinations required for evidence.

B. Victim interviews shall be conducted in as secure, private, and pleasant surroundings as available.

C. An interpreter shall be made available where the victim does not speak English.

D. The victim shall be allowed to use the telephone at the police station.

E. The victim must receive immediate medical care for injuries. If the victim requests medical attention, it shall be provided through

- on site first aid
- care for ambulance
- transport to medical facility

F. Procedures shall be established to ensure that medical examinations required for evidence are paid for directly by the law enforcement agency or through eligible claims to the Violent Crimes Compensation Board.

G. Every effort shall be made to minimize inconvenience to the victim.

H. Whenever possible, appointments shall be scheduled at the convenience of the victim.

I. Victims and Witnesses shall not be forced to wait for long periods of time to be interviewed.

J. Whenever possible, limitations shall be placed on the number of times the victim must repeat the facts surrounding the offense.

K. Property return accomplished within 30 days unless evidentiary requirements prevail (not applicable to firearms).

PROTECTION

A. Victims and witnesses should be encouraged to report any incident of intimidation or harassment. Victims shall be informed of available responses to intimidation including bail revocation, additional charges, escort to court.

B. Restraining orders should be sought as a condition of bail and prepared with the complaint, as appropriate.

SERVICES

A. Crime scene assistance capability to include emergency referrals or direct assistance for:

Medical care, shelter, relocation, food, clothing and child care.

Crisis intervention counseling provided by:

Trained in-service personnel.

24 hour hotlines.

Emergency psychiatric services.

Victim assistance agencies.

B. Assistance with completing compensation forms and filing of claim.

C. Social service resource directory maintained for referral.

D. Referrals to the appropriate County Prosecutor's Office of Victim-Witness Advocacy.(20)

VIII. NEW JERSEY RESIDENTS WHO ARE RELATIVES OR SURVIVORS OF VICTIMS OF CRIMES THAT OCCURRED IN ANOTHER STATE

A. When a next of kin of a New Jersey resident is a homicide victim or the victim of a violent crime in another state, it is extremely difficult for the relative in New Jersey to secure information about the attacker or the progress of the attacker's prosecution in the other state. It is recommended that the appropriate County Prosecutor in New Jersey obtain such information for the New Jersey next of kin and transmit it through the County Victim-Witness Coordinator in each county.

COMMENTARY

It is recommended that there be joint trainings at the county police academies and at the New Jersey State Police Training Center in Sea Girt for police, prosecutor's investigators, County Victim-Witness Coordinators and Violent Crimes Compensation Board staff, with instructors drawn from those groups in the same way that joint training has been conducted in the area of child abuse.

Training for County Victim-Witness Coordinators should be developed to include the special circumstances and needs of the aforementioned victim populations.

It is recommended that the Basic Recruit and In-Service training curriculum approved by the Police Training Commission include a performance objective and resource material pertaining to special victim populations.

PART FOUR: State and County Offices of Victim-Witness Advocacy Services

A. The following services shall be provided by the State and County Offices of Victim-Witness Advocacy.(21) (See Appendix A-20.) These services shall be described in a program brochure and disseminated to all victims whose cases have reached the County Prosecutor's Office. Additionally, the brochure should be displayed in an information rack and placed in victims' waiting and reception areas or courthouses. Victims should be informed of the following services

provided through the program:

1. Crisis intervention and short-term counseling.
2. Referrals for other needed services.
3. Orientation to the criminal justice system.
4. Case status information.
5. Transportation.
6. Child care.
7. Assistance with Violent Crimes Compensation Board claims.
8. Restitution and other forms of financial entitlements.
9. Assistance with property return.
10. Court accompaniment.
11. Employer, school, landlord, creditor intercession services.
12. Victim-witness waiting/reception areas separated from defendant, defendant's family or friends, defense counsel or defense witnesses.
13. Victim Impact Statements (to prosecutor's office prior to formal charging, sentencing court prior to sentencing, parole board where appropriate.)
14. Document replacement assistance.
15. Crime prevention information.
16. Advice and information on counseling and testing for disease in cases of sexual assault and other criminal acts where there is a risk of the transmission of disease.(22)

B. The Offices of Victim-Witness Advocacy shall provide social service referrals. Referral services shall minimally include:

1. Counseling.
2. Support groups.
3. Crime prevention.
4. Treatment programs (drug, alcohol, domestic violence).
5. Medical attention.
6. Emergency shelters.
7. Homemaker services.
8. Food and clothing.
9. Financial entitlements.

C. Crime prevention information includes pamphlets concerning home security and personal safety and shall be displayed in an information rack or similar device and placed where victims and witnesses will see them and take them, such as victim-witness waiting/reception areas or courthouses.

1. Referral to crime prevention services such as Operation ID, lock repair and home security surveys will be offered routinely to all victims of property offenses. A resource file of providers of these services and crime prevention officers shall be maintained by the County Victim-Witness Coordinator.

D. Victims will be provided with employer, school and creditor intercession services which shall include verbal or written notification of required court appearance where applicable, as well as advocacy on behalf of the victim in minimizing losses associated with their victimization.

1. The Office of Victim-Witness Advocacy will maintain an employer notification form which will be completed and supplied to the victim/witness or mailed to the employer upon request. Verbal notification to the employer may also be made when appropriate.

E. County Victim-Witness Coordinators shall maintain a current comprehensive resource directory of all available service agencies in their jurisdiction. The County Victim-Witness Coordinator will contact the selected service resource prior to actual referral to introduce the client and situation at hand, facilitate effective service and overcome unnecessary delays. A previously established rapport and protocol with selected service agencies should be established and follow-up contact concerning the victim's satisfaction and progress should be made.

F. Compensation for injuries resulting from violent crime is available to qualified applicants from the Violent Crimes Compensation Board. Assistance will be made available to victims by providing information on and referral to the Violent Crimes Compensation Board. This involves advising the victim about compensation, explaining eligibility, providing and assisting with the completion of claim forms, and providing assistance in gathering verification of losses and damages.

G. County Victim-Witness Coordinators will advise victims of their right to seek restitution, where applicable, and advocate on behalf of victims in seeking these entitlements.

H. Transportation to and from the courthouse will be provided or arranged for upon request, when the victim's or witness's appearance in court is required.

1. Transportation assistance for meeting counseling appointments or other service needs should involve helping the victim to identify possible resources, such as public transportation, family, friends or volunteers and making necessary arrangements, when necessary.

I. Child care should be provided when the victim's appearance in court is required. Child care should be provided on-site in a safe, comfortable, appropriately furnished area. The child care facility should be staffed by appropriate personnel from the County Office of Victim-Witness Advocacy or the Sheriff's Department. An age limit of three years will be maintained. For children under the age of three, child care assistance may be provided through referral to other service resources or reimbursement to the victim for babysitting costs. The County Office of Victim-Witness Advocacy shall develop and maintain a resource file of child care providers for information and referral purposes.

J. All victims involved in the prosecution of a case shall be informed in writing by the Office of Victim Witness Advocacy of their right to provide victim impact statements at sentencing. The County Offices of Victim-Witness Advocacy shall offer to provide assistance in preparing the statement.

K. The Office of Victim-Witness Advocacy shall provide assistance to the victim with the victim input procedure to the Parole Board.

COMMENTARY

The State Office of Victim-Witness Advocacy within the Division of Criminal Justice shall provide limited funding to the County Offices of Victim-Witness Advocacy from the Victim-Witness Advocacy Fund pursuant to N.J.S.A. 2C:43-3. 1. Technical assistance shall also be rendered to the County Offices of Victim-Witness Advocacy on the delivery of the above-stated services.

Office space for the County Office of Victim-Witness Advocacy shall be provided by the County Prosecutor's Office, as available and by each municipality at minimal or no cost.(23)

1. Revised Homicide and Sudden Death Survivor Guidelines, April 18, 1986.
2. Criminal Injuries Compensation Act of 1971 (N.J.S.A. 52:4B-1 et seq.).
3. N.J.S.A. 52:4B-36b.
4. N.J.S.A. 52:4B-36k.
5. "Policy Statement of the Attorney General of New Jersey and the County Prosecutors Association of New Jersey Regarding Notification to Next of Kin of Death By Auto Victims and Victims of Assault by Auto," July 15, 1985.
6. Pending Passage of Assembly Bill Nos. 897 and 220.
7. N.J.S.A. 39:4-50.11c.
8. N.J.S.A. 30:4-123.54.
9. "Policy Statement of the Attorney General of New Jersey and the County Prosecutors Association of New Jersey Regarding Notification to Next of Kin of Death By Auto Victims and Victims of Assault By Auto," July 15, 1985.

10. P.L. 1987 c.148.
11. N.J.S.A. 2C:44-2(b)
12. N.J.S. 2C:25-23
13. N.J.S. 2C:25-23
14. N.J.S. 2C:25-26
15. N.J.S. 2C:25-26
16. P.L. 1987 C.307
17. N.J.S.A. 52:45-22
18. Pending Passage of Assembly Bill Nos. 897 and 220
19. N.J.S.A. 2A:82-46
20. Bias Incident Investigation Standards-Policy and Procedures for New Jersey Law Enforcement, January 28, 1988.
21. N.J.S.A. 52:4B-44.1-18.
22. Pending Passage of Assembly Bill Nos. 897 and 220.
23. N.J.S.A. 52:4B-4c c and d.