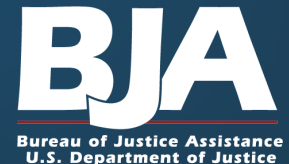


BUREAU OF JUSTICE ASSISTANCE

THE SURVIVING VICTIMS: GUIDING THE FAMILIES OF HOMICIDE VICTIMS THROUGH THE CRIMINAL JUSTICE PROCESS

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October 9, 2019



Why Is It Important?

- Victims' families are your stakeholders.
- You may need their support for the eventual plea.
- You're a decent human being.
 - They have a human right to be informed.
 - Confidence in the outcome will aid their healing.

Initial Contact

- Give them a couple of weeks before making contact.
- Schedule a meeting to meet them face to face.
- Invite law enforcement to the meeting.

The Initial Meeting

Who should be present?

- Prosecuting attorney, law enforcement, and victim assistant
- Victim's family: keep it small
 - Avoid the instigator
 - Avoid getting off topic

Purpose of The Initial Meeting

- Begin developing the relationship
- Learn about your victim
- Explain the court process
- Explain **your** process
- The purpose is **not** to talk about details of the case.

Format of The Initial Meeting

- Make introductions
- Ask them how they're doing

The Initial Meeting

- Ask them about the victim:
 - Tell me a little bit about [the victim].
 - Who raised [the victim]?
 - Did [the victim] have kids?
 - What did [the victim] like to do?

The Initial Meeting (cont.)

The Three Promises

- You will always hear the truth from me.
- We will hear from you at every stage of the proceedings.
- Nothing will happen without you knowing.

The Initial Meeting (cont.)

You won't be going into the details of the investigation yet.

- The investigation is ongoing.
- Your involvement up to this point.
- You have not received/reviewed the case file.
- It is not fair to anyone for you to start trying to talk about details yet.

The Initial Meeting (cont.)

Explain the ground rules on confidentiality:

- Your ability to speak freely with them is conditioned on the fact that they will not share the information with anyone else.
- Prosecutors operate under rules and can be held responsible if information makes it to the media.
- You don't want anything to hurt this case.

The Initial Meeting (cont.)

Explain the following on dealing with investigators:

- Only the people you brought to the initial meeting will be contacting them from your side of the investigation.
- If anyone else contacts them, assume they are not on our side.
- You cannot tell them not to talk to someone, but they have options:
 - They can talk to them.
 - They can refuse to talk to them.
 - They can ask that you be present when they talk to them.

The Initial Meeting (cont.)

Explain the court process:

- Discuss various court dates (capital decision, administrative, bond hearing, arraignment, trial) and highlight the ones that are important for them to attend.
- Your victim assistant will keep them informed.

The Initial Meeting (cont.)

Explain **your** process:

- Receipt of investigative file/review

The Initial Meeting (cont.)

Explain **your** process:

- Capital decision process
- Should you ask their opinion on the death penalty?
 - It's too raw.
 - They don't have the appropriate frame of reference.

The Initial Meeting (cont.)

Explain **your** process:

- Capital decision process
- Should you ask their opinion on the death penalty?
 - No.
 - Instead, plant seeds and manage expectations.

The Capital Decision: Managing Expectations

How I manage expectations:

- In North Carolina, the defendant gets two attorneys and everything goes at half speed.
- Close calls go to the defendant.
- Capital verdicts are rare.
- Appeals and motions mean the case will never really be over.
- North Carolina has not executed anyone since 2006.
- The closer: Declaring a case “capital” makes the case about the defendant rather than the victim.

The Initial Meeting (cont.)

Explain **your** process:

- Describe the plea offer process.
 - Discuss how you roundtable cases to determine whether to make a plea offer and, if applicable, what kind of plea offer to make.
 - The case will be presented objectively to law enforcement and experienced prosecutors.
 - You will discuss strengths and weaknesses of the case and the best possible/worst possible/most likely result at trial.

The Initial Meeting (cont.)

Explain **your** process:

- Describe the plea offer process.
 - **Do not** talk about resources.
 - That is all they will hear.
 - A plea offer driven by resources does not inspire confidence.

The Initial Meeting (cont.)

Explain **your** process:

- After that roundtable, explain that you will meet with them again to share the results and get their input.

The Initial Meeting (cont.)

- Explain how property will be handled once the case is closed.

Wrapping Up the Initial Meeting

- The victim assistant will be in regular contact
- I don't give out business cards.
 - Funnel all direct contact through your victim assistant.
- Take questions.

Wrapping Up the Initial Meeting (cont.)

How to get out of the room:

- Tell them: “Chances are, you’re going to leave here and think, ‘I wish I had asked X.’ That’s ok. We’re not going anywhere. You can call us anytime.”
- Hug mom. She needs it, and it is hard to hate someone you hug.

The Plea Offer Meeting

Who is present?

- Law enforcement
- Prosecuting attorney
- Victim assistant

The Plea Offer Meeting (cont.)

- Ask how they are doing.
- Review your process: build credibility
 - I told you I would review the file. I did.
 - I told you I would present it to my team. I did.
 - I told you these detectives would be there. They were.
 - I told you after the plea offer meeting, I would bring you in. Here we are.

The Plea Offer Meeting (cont.)

- Should you build up to the offer or rip off the Band-Aid?
 - Generally, build up to the offer.

The Plea Offer Meeting (cont.)

- Remind them you promised you would be honest.
- Share the facts with the family.
- Explain the strengths/weaknesses of the case.
- Explain the Beyond A Reasonable Doubt standard/unanimous verdict requirement/the crazy juror.
- Explain that a not guilty verdict means the defendant walks.

The Plea Offer Meeting (cont.)

- Explain the plea offer including felony classifications and sentencing charts.
- Remind them that you promised you would hear from them. Ask for their thoughts and discuss their concerns.
- Explain that this is just an offer and the defendant may reject it. Explain that you would not be surprised if the defendant rejects the offer because a good defense attorney will explain the weaknesses in the case and that there is a chance the defendant could walk.
- If the victim's family start making arguments, explain that those are the exact arguments you will be making if the defendant does not take this offer.
- Explain they will get to address the court at sentencing.
- They are rarely going to be happy. Aim for understanding.
- Hug mom.

The Plea Offer Meeting (cont.)

Tips and tricks:

- Care.
- Be honest.
- Be genuine.
- Know your case.
- Know when to let someone else speak.
- Listen.
- Take it on the chin.

Bond Hearings

Before the bond hearing:

- Explain your state's laws for homicide bonds.

After the bond hearing:

- Use the result to help manage expectations.
- Is the bond lower than you expected?
 - “That number tells us the judge doesn't think the evidence is very strong.”
- Is the bond higher than you thought?
 - “Well, the judge actually set a bond which tells us their thoughts on the strength of our evidence.”

How To Explain a Dismissal

- Tell them you did what you told them you would do (reviewed file, roundtable, etc.)
- Remind them you promised to tell them the truth.
- Explain the evidence/weaknesses in the case.
- If they make arguments, remind them those are the arguments you would make, but they will not carry the day.
- Explain how it reaches probable cause but not reasonable doubt.
- Law enforcement support is key.
- Explain double jeopardy versus the option to recharge in the future.

Other Considerations

- You cannot fix their pain, but you can help.
- Manage expectations.
 - Expectations that are met = more confidence in the result.
- Earn their confidence.
 - Confidence in you and your process = more confidence in the result.
- Confidence in the result will help their healing.

Other Considerations (cont.)

- This is an emotionally draining job.
- You cannot take care of others if you do not take care of yourself.
- If you ever find yourself struggling to care, it is time to take a break.

Questions?

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Download the “Initial Family Meeting” Outline

<https://www.apa-inc.org/initial-family-meeting-outline/>

Notice of Federal Funding and Federal Disclaimer

This project was supported by Grant No. 2018-CP-BX-K002 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART) Office, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice.

