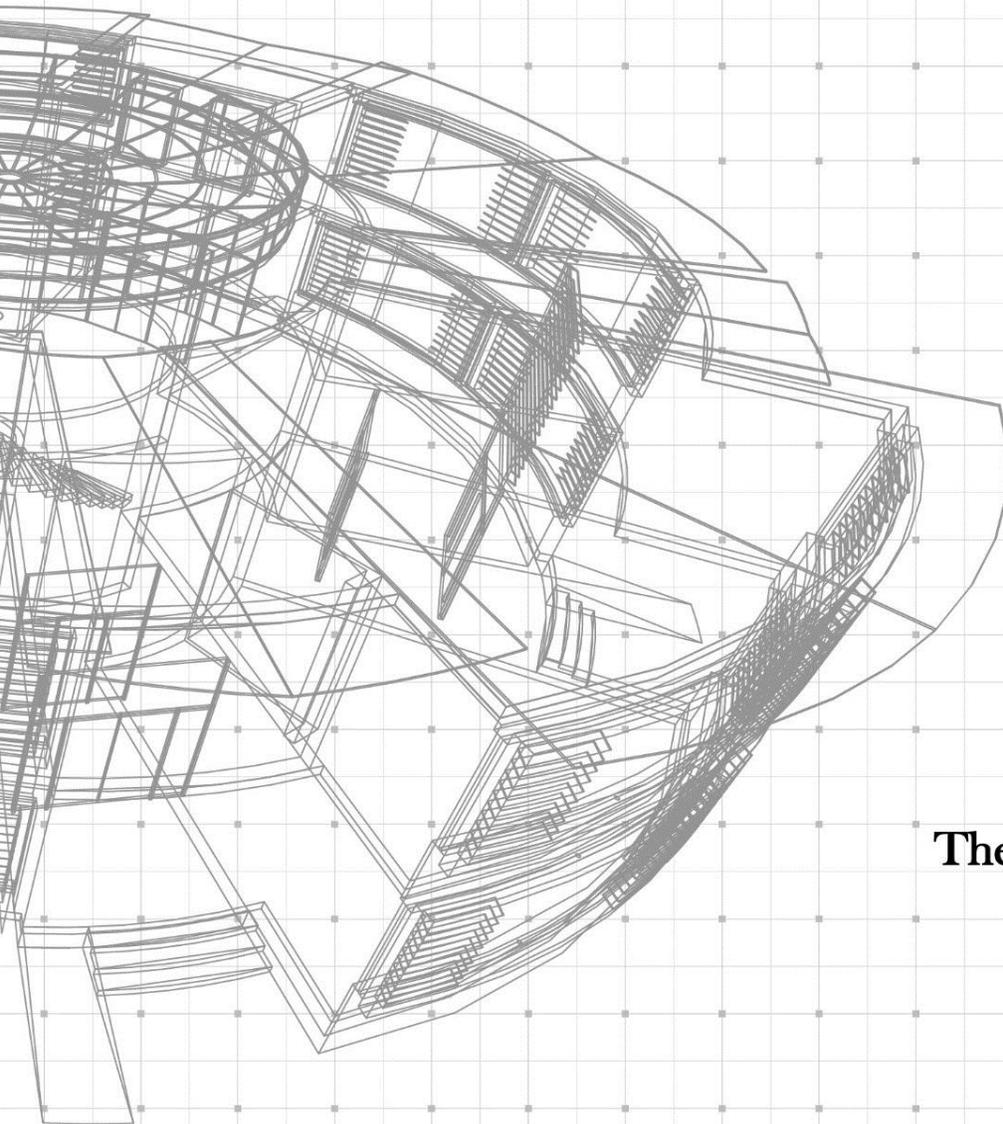


CHAPTER SIX

# Victim Witness Assistance

Office of the Orleans Parish District Attorney



The New Orleans  
**blueprint**  
*for* **safety**

# Victim Witness Assistance

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## Foundational Principles

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The collaboration of criminal justice agencies within New Orleans to develop a coordinated criminal justice response to domestic violence is the City's *Blueprint for Safety*. The District Attorney's Office, along with the city's other *Blueprint for Safety* agencies, is committed to a set of shared foundational principles that maximize safety for victims of domestic violence and hold offenders accountable while offering them opportunities to change. These foundational principles are:

- Adhering to an interagency approach and collective intervention goals;
- Building attention to context and severity of abuse into each intervention;
- Recognition that most domestic violence is a patterned crime requiring continuing engagement with victims and offenders;
- Ensure sure and swift consequences for continued abuse;
- Send messages of help to victims and messages of accountability to offenders;
- Act in ways that reduce unintended consequences and the disparity of impact on victims and offenders.

The Orleans Parish District Attorney's Office shall ensure participation in ongoing interagency *Blueprint* monitoring, evaluation, and maintenance.

# Policy

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Victim/witness advocates shall take the following actions in providing assistance to victims of domestic violence in criminal cases, using the protocols that are referenced in this policy.

The advocate shall:

1. Inform the victim that any communications with the victim/witness advocate are not confidential and may be communicated to the prosecuting attorney and thus, under certain circumstances, the defense attorney.
2. Take steps to ensure that the victim has had a voice in the decision to charge or decline a case.
3. Participate in efforts to resolve differences between charging attorneys' and investigating law enforcement officers' actions on cases from a victim safety-centered position.
4. Establish a relationship with the victim by making contact as soon as possible after charging, and maintaining contact throughout the pre-trial phase to ensure that the victim's wishes and safety needs are made central to case management.
5. Provide required victim notification pursuant to state law and assist victims in exercising their rights under the law.
6. Assist the victim with restitution and reparations requests.
7. Assist the victim in preparing a victim impact statement and ensure that the statement is presented to the court in accordance with the victim's wishes.
8. Facilitate the preparation of the victim and other witnesses to testify at trial.
9. Enhance safety by providing post-conviction information and support.
10. Utilize the Prosecution Domestic Violence Policy & Protocols as a guide for what information should be obtained from the victim that will assist attorneys in charging, bail and pre-trial release settings, plea negotiations, and sentencing recommendations.

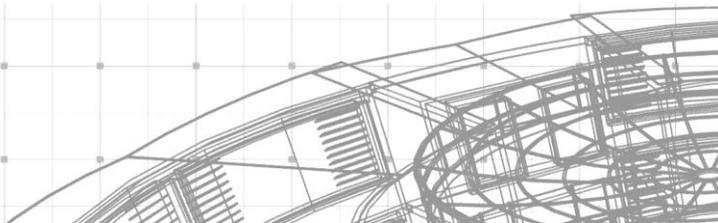
# **Victim Witness Assistance Protocol**

## **Charging**

1. Upon contacting the victim, inform her or him that any communications with the victim/witness advocate are not confidential and may be communicated to the prosecuting attorney and thus, under certain circumstances, the defense attorney.
2. Ensure that the victim has had a voice in the decision to charge or decline a case.
  - a. If the victim desires, meet with her/him and the prosecutor to ensure that the victim's concerns are thoroughly considered and that she/he understands the basis for the prosecutor's decision.
3. Participate in efforts to resolve differences between charging attorneys' and investigating law enforcement officers' actions on cases from a victim safety-centered position.
4. Attend quarterly interagency meetings with prosecutors and the head of the NOPD Domestic Violence Unit to review problematic cases and discuss how to resolve differences.

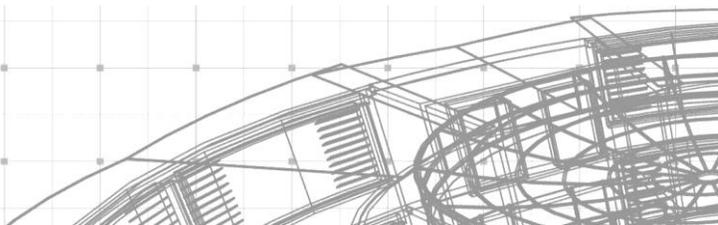
## **Pre-trial Support and Information**

1. Establish a relationship with the victim by making contact as soon as possible, and maintaining contact throughout the pre-trial phase to ensure that the victim's wishes and safety needs are made central to case management.
  - a. Be diligent in efforts to contact the victim by:
    - Calling all numbers provided in the law enforcement report.
    - Contacting the local advocacy program to see if they have talked with the victim and have permission to share information to help you connect.
    - Sending a letter to the victim's last known address introducing the victim's advocate, how to contact the advocate, how the advocate can assist the victim, the rights of crime victims, and information on the Family Justice Center.



- b. Communicate, whether verbally or in writing, in the appropriate language with the victim. Utilize community resources for translation when needed.
- c. Offer support, resources, information and opportunities to participate in the process.
- d. Orient the victim to the criminal justice system by answering her/his questions about:
  - Bail, conditional release and stay away orders
  - The charges and what they mean
  - The criminal process and the role of the various players
- e. Emphasize the state's responsibility in carrying the case forward and how and where the victim can affect the prosecutor's decision-making.
- f. Explore the victim's concerns about safety and problem solve regarding the use of bail, stay away orders and conditions of release to enhance safety.
  - Refer to shelter, local legal advocates and other community resources
  - Discuss with the victim what information she/he wants brought to the attention of the court.
  - Explain to victims in felony cases the risk assessment that the judge will perform to make a bail determination (as of August 1, 2014 per Code of Criminal Procedure Article 330.3). Inform the victim of the risk factors that the judge will consider and determine whether or not the victim wishes to share information on the risk factors with the judge. Ensure the victim understands that sharing this information is voluntary, but it is also an opportunity to articulate information to the court the victim believes to be important. Also ensure the victim understands that this information will be provided to the judge in court, so it will not be protected from the defendant and/or the defendant's attorney. Risk factors include:
    - Gun ownership
    - Threats to kill
    - Prior threats with a dangerous weapon
    - Forced sex
    - Choking
    - Control of daily activities
    - Threats of suicide
    - Threats to harm children; and
    - Other relevant factors.

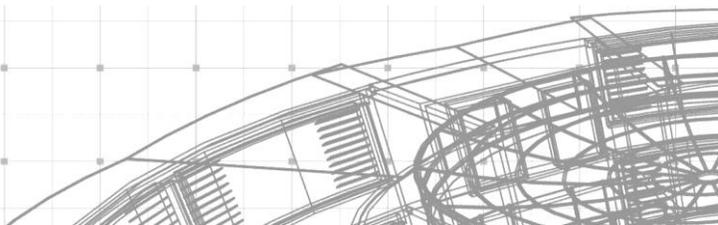
- g. In cases where the victim does not want a stay away order, explore her/his concerns about the impact of an order.
  - Explore whether the victim's safety might actually be enhanced if some contact with the defendant is permitted.
  - Try to determine if the victim is being intimidated by the defendant or others; if so, do safety problem solving.
  - Talk with the victim about specific safety concerns.
  - Communicate the victim's wishes and concerns as well as crucial information regarding risk and danger to the prosecutor.
- h. If the victim indicates the defendant has made implied or direct threats regarding her/his participation in the case, notify a Domestic Violence Unit detective and ask the victim to call the detective.
- i. Be available to address victim concerns and answer questions throughout the pre-trial phase.
- j. Provide required victim notification pursuant to state law and assist victims in exercising their rights under the law.
- k. Notify verbally and provide copies of pertinent documents, including:
  - Stay away orders
  - Notification of court hearings (send a follow-up letter if unable to speak with the victim on the phone)
  - Notice of victim's rights (La. Const. Art. I, § 25 and La. R.S. 46:1844) and victim/witness services
  - Financial assistance available to crime victims in the form of restitution and reparations.
  - How to register for the Louisiana Automated Victim Notification System (LAVNS) in order to search information regarding an offender's current custody and case status, as well as receive automatic notifications of the offender's release, transfer, escape or change in case status.
- l. Make written information available in major languages spoken in the community. Utilize community resources for translation when needed.
- m. Seek input from the victim on case resolution and explore its impact on her/his life.
- n. Explore the victim's wishes concerning any proposed negotiation, including:



- Incarceration
  - Batterers' groups
  - Evaluation, treatment, and level and frequency of monitoring of the defendant's alcohol/drug use
  - Mental health evaluation, treatment or requirement that the defendant be compliant with medications or other treatment
  - Offender contact with the victim and/or children
  - Potential impact of the criminal case outcome on family and/or juvenile court cases
- o. Forward this information to the prosecutor.
- p. If the victim disagrees with a proposed negotiation, ensure that the victim's arguments are thoroughly considered and that she/he understands the prosecutor's reasoning.
- q. If disagreements cannot be resolved and the victim wishes to state her/his opposition on the record, assist the victim in preparing a victim impact statement to be presented to the court.
- r. Connect the victim to the Sheriff's Crime Victim Reparations Office to assist the victim with restitution and reparations requests.
- s. Make necessary forms and procedural information available, and help complete forms and gather information to substantiate the victim's financial losses.
- t. Assist the victim in preparing a victim impact statement and ensure that the statement is presented to the court in accordance with the victim's wishes.
- u. Talk with victims about what a victim impact statement is and the procedure through which it is presented to the court. Engage the victim in a realistic discussion of what "impact" the statement is likely to have on a proposed sentence, especially in those situations where the victim is in disagreement with the negotiation. It is critical to explore with the victims what they hope will be accomplished by providing the statement and help them think through whether the victim impact statement is the most appropriate and helpful avenue for meeting those goals. Finally, identifying what if any fears a victim has about delivering the statement will provide the opportunity to create a plan that accounts for those fears.

## Assistance at Trial

1. Facilitate the preparation of the victim and other witnesses to testify at trial.
  - a. Use all avenues to locate victims and other witnesses, including:
    - Contacting shelters or advocacy programs.
    - Leave messages requesting that the victim call the victim/witness advocate.
    - Asking witnesses if they know how to find the victim
    - Requesting assistance from law enforcement detectives
    - Communicate with witnesses regarding subpoenas and the trial schedule.
    - Arrange transportation, lodging, or other logistical support for victims and other witnesses.
  - b. Intercede with employers and schools to secure witness availability.
  - c. Provide the victim or witness with a letter to give to their employer or child's school
  - d. Provide the victim or witness with a subpoena if necessary
  - e. Provide assistance with child care depending on the circumstances of the case and as resources permit.
  - f. Arrange for safe waiting space as requested by the victim or witnesses.
  - g. Orient victims and other witnesses to the court proceedings.
  - h. Give particular attention to the needs of child witnesses by:
    - Meeting with them in a child-friendly setting
    - Talking with them about what to expect
    - Taking them on a tour of the courtroom
    - Taking other steps necessary to minimize her/his discomfort.



- i. Support the needs of adult victims with disabilities.
- j. Escort victims and other witnesses to the courtroom and remain to provide support.
- k. Wait with or maintain contact with the victim while the jury deliberates and prepare to assist and support the victim following the verdict.
- l. Communicate the case outcome, answer questions and explain options.
- m. Be particularly attentive to victim safety in the case of an acquittal.
- n. In emergency situations assist the victim with relocation as resources permit. Assist the victim with obtaining a civil protective order and with safety planning.

### **Post-conviction Assistance**

1. Enhance safety by providing post-conviction information and support.
  - a. Facilitate victim connection to probation or Domestic Violence Monitoring Court following a guilty plea or verdict.
    - With the victim's consent, notify the probation officer or Domestic Violence Monitoring Court of updated contact information for the victim as requested.
    - Upon the victim's request, provide the number of the assigned probation officer or Domestic Violence Monitoring Court.
  - b. Contact victim prior to sentencing to discuss the sentencing hearing. Determine whether the victim has talked to the PSI writer, if a PSI is ordered, or plans to attend the sentencing hearing.
  - c. Attend the sentencing hearing.
    - Provide support if the victim is present.
    - Ensure that the victim impact statement is presented to the court in accordance with her/his wishes. If the victim does not wish to speak to the court directly, read the victim's statement into the record.
    - Call the victim to discuss the sentence if she/he does not attend.
    - Reduce the financial impact of the violence by assisting with restitution and reparations.
    - Provide the victim with the Louisiana Department of Public Safety & Corrections Victim Notice & Registration Form in cases where the defendant is sentenced into DOC probation.

- Connect the victim to the assigned probation officer or Domestic Violence Monitoring Court to report violations. Work with the probation officer/monitor and prosecutor to address violations promptly.
- When the sentence involves jail or prison time, inform the victim how to request notification of inmate release. Help the victim prepare for release by assisting with obtaining a restraining order, providing referrals to shelter or community advocacy, providing information about how to legally relocate and other safety measures.
- Notify the victim of any hearings scheduled for post-conviction motions filed by the defense for appeal or expungement of the record. Talk with the victim about the process and assist her or him in communicating any concerns to the court.

