

THE VICTIM ADVOCATE



A SPECIAL
CRIMINAL JUSTICE IMPROVEMENT PUBLICATION
of the
NATIONAL DISTRICT ATTORNEYS ASSOCIATION

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ACQUISITIONS

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INTRODUCTION

The following chapters have been prepared to provide essential information to Prosecutors, and other criminal justice agencies or social service agencies with existing victim witness programs, or those wishing to start a program.

This issue outlines two components of a program that can be most beneficial in the day-to-day operation of an efficient victim witness assistance office. These are, a witness notification system and the use of volunteers.

With federal funds being quickly exhausted, the use of volunteers becomes more and more important in the operation of victim witness programs. Some of the Commission offices have used volunteers since the inception of their program and feel it is a proven method of increased program efficiency and savings.

A reliable witness notification system is felt throughout the criminal justice system for it saves time and money for all persons involved in a particular case. If possible you could/should include police in this system. Its proven effect has been increased cooperation from all segments of the community.

With a comprehensive notification system and a staff of volunteers, a victim witness program can offer significant services at minimal cost. These components are only two of the services that can be provided for victim witness assistance. Such services and program ideas will be offered in subsequent issues of "The Victim Advocate."

Our deepest appreciation is extended to District Attorney Christopher T. Bayley of Seattle, Washington for the use of his volunteer manual as our model for this publication.

CHAPTER I

THE PROCESSING OF A CRIMINAL CASE

Introduction

Volunteers working in the Victim Witness Assistance Unit will be spending a great deal of time answering questions about the criminal justice system. This Chapter has been prepared to help volunteers understand the steps involved in the processing of a criminal case from the time an incident is reported to the police until a final disposition is reached. Certain terms have been underlined to stress their importance. They represent people, procedural steps or physical locations involved in the processing of a criminal case. Volunteers should become familiar with these terms.

Police Agencies

Most criminal cases come to the attention of law enforcement authorities when the police are called to respond to a crime. Within this county each municipality has its own police department which responds to calls within its geographic jurisdiction. In unincorporated areas, the County Department of Public Safety responds. The police agencies operating within this County are:

- Grovener Police Department (GPD);
- Allen Police Department (APD);
- Langley Police Department (LPD);
- Morris Police Department (MPD);
- Waterford Police Department (WPD); and,
- County Department of Public Safety (CDPS).

Crime Reports

When one of the above listed police agencies receives a report of a crime, normally a patrol officer travels to the crime scene and takes an initial report listing the general circumstances of the crime and the names and addresses of all possible witnesses. The patrol officer then completes an initial report form which is filed with the police department to be channeled to detectives who investigate that particular type of crime. In large police departments, such as the Allen Police Department and the County Department of Public Safety, detectives are assigned to specific Divisions (Burglary and Theft, Homicide, Sexual Assault and so on). In smaller jurisdictions, the limited number of detectives are assigned to handle a wide-range of serious cases. A sergeant or other ranking officer in the Detective Division reviews the initial report form and then assigns the case to a detective for a complete investigation if it appears in fact that a crime has actually been committed.

The detective, a plainclothes police officer, then does further investigation and further paper work. The detective takes formal written statements from witnesses, obtains and processes physical evidence, writes reports and prepares the case for presentation to the District Attorney's office.

Case Review by District Attorney

The case, now literally nothing more than a folder of papers and reports, is brought to the District Attorney's office by the detective. The detective goes to one of the five Assistant District Attorneys in the Screening and Intake Unit. Each of these Assistant District Attorneys is a Senior Assistant with full authority to approve actual filing of criminal charges.

Typically, the detective makes an oral presentation while the Assistant District Attorney examines the file. After examining the file and weighing the detective's oral presentation, the Assistant District Attorney will ask the detective to furnish any remaining investigative work. If the Assistant District Attorney is satisfied that the detective's report provides sufficient evidence as to the commission of a crime by the alleged offender, and if his judgment tells him that the case has a reasonable probability of success at trial, the Assistant District Attorney will file a criminal case.

The Assistant District Attorney, having determined that a criminal case is warranted, fills out an orange sheet which will be utilized by the Word Processing Center to type up the various forms required. The Assistant District Attorney also prepares for the Word Processing Center a Suspect Information Sheet containing information about the defendant. The Suspect Information Sheet will be processed and entered into both police and courthouse computers. The formal charging papers are then prepared at the Word Processing Center and the paperwork is organized into a formal criminal case file. Upon completion, the file will be returned to the Assistant District Attorney for his review, approval and signature. After the Assistant District Attorney has signed the file, it is delivered to the Information and Records Section.

At the Information and Records Section a number is assigned to that case. The case number will never change. The formal criminal case papers are then taken to a judge for his signature and the criminal case is then entered into the court computer with appropriate information regarding the filing of a case.

Defendant

Before a criminal case can be filed, a defendant must be identified. Sometimes a defendant is arrested (taken into custody) at the scene of the crime shortly after the actual crime occurs. In other cases, witnesses identify the defendant who remains at large somewhere within the community. Defendants arrested at or near the time of the actual crime will be taken to jail; however, within twenty-four (24) hours, the defendant is entitled to appear before a magistrate to seek release. Many defendants are released on their personal promise to return to court when called upon to do so and without posting bail. This is called ROR or Release on Recognizance. ROR means that a defendant is not required to post money bail or a bail bond. Defendants with serious records, those who have committed dangerous felonies or those who have a history of not returning to court as requested may still be required to post money bail in order to obtain release. Decisions regarding the release of defendants on ROR or on money bail are determined by a judge.

These decisions -- bail hearings -- are regularly held at 3:00 P.M. calendar on the Fifth Floor at the County Court House. Except in special circumstances, at 3:00 P.M. each day those persons who have been arrested during the preceding twenty-four (24) hour period come before a judge for a bail hearing. These persons had previously been interviewed by a social worker at the jail and the judge, after an appropriate hearing, decides whether or not to release them. In most cases, during the twenty-four (24) hours prior to the bail hearing, defendants can post money bail and be released. The amount of bail set for such pre-bail hearing release will depend upon the crime for which each person has been arrested.

While an incarcerated defendant is attempting to get out of jail by either posting bond or being released on personal recognizance, the police work quickly to investigate the crime, prepare necessary paperwork and get that investigative information to the Assistant District Attorney so that he can make a decision as to whether or not to file a case. In most cases, an arrested defendant will be released prior to the time that a criminal case is filed.

Arrest Warrant

After formal criminal charges are filed, a warrant is issued for the the defendant's arrest. In our County the information from that warrant is placed into our police and court computers. If a defendant is still in jail, he is formally served with the warrant while in jail. If a defendant was released at a regular 3:00 P.M. bail hearing because a criminal case was not filed within the required time, he may be rearrested once the criminal case has been filed and a warrant has been issued. In order to keep a defendant incarcerated, however, the state must be able to justify such action. During the entire pendency of a case, a defendant will be released on a bail bond, on actual money bail, on personal recognizance or, in rare instances, might remain in jail. If a defendant is kept in jail because he cannot post bond, he may petition the court to lower his bail in order to secure his release.

Let us assume here that a case has been filed and the defendant has been located. The defendant would then be summoned, or brought, to a hearing called the arraignment. If the defendant had been arrested and was in custody the arraignment hearing would take place on the Fifth Floor of the County Court House at 10:00 A.M. If the defendant was not in custody and appeared in response to a summons, his arraignment hearing would take place on the Sixth Floor of the Courthouse at 11:00 A.M.

An arraignment serves several purposes. First, at the time of the arraignment a defendant is formally advised as to the exact nature of the charges which have been filed against him. He is also advised that he should have an attorney and that if he cannot afford an attorney, an attorney will be provided for him at public expense. At the arraignment the defendant has an opportunity to enter a plea to the charges against him. In most cases a plea of "not guilty" is routinely entered at the arraignment. At this point the case is continued for one or two weeks. A continuance means that the defendant will be required to appear again before the same judicial officer in either one or two weeks. In those cases where a defendant has no attorney, the continuance is generally for one week at which time the defendant would appear with his attorney.

When the defendant reappears, with counsel, he is given an opportunity after appropriate consultation with his counsel to change his prior plea of not guilty or to go to trial. If a defendant, with the advice of counsel, decides to go to trial a trial date is set. Defendants are entitled to a speedy trial and if a defendant remains in custody, the trial date must be set for no later than 60 days after the time of arraignment. Defendants who have been released from custody on bail or personal recognizance must receive a trial date within ninety (90) days from the date of the arraignment. In special circumstances defendants can ask that the trial date be postponed but in order to do so defendants must specifically waive the right to a speedy trial.

Pretrial Actions

During the time between arraignment and trial, the District Attorney's office will give the defense attorney copies of the state's case file including witness statements and police reports. This is called discovery and enables defense counsel to determine the strength of the state's case against the defendant.

During this period, it is also routine for the Assistant District Attorney handling the prosecution to discuss with the defense attorney the possibilities for plea negotiation. The defense attorney may seek a dismissal of certain counts, a commitment on the part of the Assistant District Attorney not to file additional counts, an agreement which will enable his client to plead guilty in return for a reduction in the severity of the charges or an agreement to recommend a particular sentence. If the Assistant District Attorney, the defense counsel and the defendant can reach

agreement, they will appear before a judge. At this time the defendant completes a form indicating that he is knowingly giving up various rights including his right to a trial and his right to cross examine witnesses by pleading guilty. The form also contains the exact agreements made by the District Attorney's office in return for the defendant's plea of guilty. The District Attorney's agreements are not binding on the judge.

By signing the form and by orally affirming the information on that form before the judge, the defendant indicates that he understands his rights and he understands that he is waiving those rights. If his attorney affirms the defendant's actions, the plea will normally be accepted by the judge and the defendant will then be convicted of the crime as charged.

In many cases plea negotiations are not fruitful and the case proceeds to trial. Approximately three weeks before the actual trial, however, another hearing is held. In many jurisdictions this is called an omnibus hearing. At the omnibus hearing the Assistant District Attorney, the defendant and the defense counsel appear before a judge to determine whether or not information held by both attorneys -- called discovery -- has been freely exchanged. Moreover, at the omnibus hearing the court will determine if additional pretrial hearings will be necessary. Additional pretrial hearings can occur for several reasons:

- If, for example a defendant made a statement to the police and if the prosecution determines that it wants to use that statement against the defendant during the trial, the prosecution must prove that the defendant's statement was voluntary and that it was made after the defendant was fully informed of his constitutional right to remain silent. A formal hearing is required to establish these special conditions and this hearing is normally held prior to an actual trial so that the trial can proceed without interruption;
- Another example of additional pretrial hearing is a suppression hearing. In this type of hearing a defendant attempts to show that evidence against him -- which the prosecution wants to use at trial -- was seized in violation of the defendant's constitutional rights. If the court determines, after a suppression hearing, that the evidence was illegally obtained then that evidence will be suppressed. That means that the evidence will not be admitted at trial.

Upon the conclusion of all pretrial hearings the criminal case is ready for trial.

Trial

After all pretrial matters are disposed of, a firm and specific trial date is set. All parties to the criminal case including the prosecution and defense attorneys, the defendant and all prosecution and defense witnesses

are notified of the specific trial date. In many cases the defendant and the defense and prosecution witnesses receive mailed subpoenas instructing them to be in court on a specific date and at a specific time. The mailed subpoena requests each recipient to call the District Attorney's Victim Witness Assistance Unit or the Court's Witness Assistance Unit or the alert notification system. Under that system both defense and prosecution witnesses agree that on the date set for trial they will be available at a particular telephone number and that they will agree to be in court not later than one hour after receiving a telephone call to report to court. The use of this kind of telephone alert program eliminates long and unnecessary waiting periods for witnesses.

Most criminal defendants are entitled to a jury trial; that is, a trial by a jury composed of one's peers. In some cases a criminal defendant may waive his right to a jury trial in which case that matter is heard by a judge. In the matter at hand, let us assume that the defendant has chosen not to waive his right to a jury trial and has, instead, filed a formal demand for a jury trial. In such a case the court and the prosecution and the defense attorneys will begin the process of jury selection which is called voir dire. In simple terms this process enables both prosecution and defense to inquire about each prospective juror's attitudes or biases. The purpose behind voir dire is to enable both prosecution and defense to dismiss those jurors who appear either prejudiced for or against the defendant or to eliminate those jurors who they feel would not be able to render a fair verdict. Once this process has been selected, the jury is formally sworn and the trial itself can begin.

Opening Statements

The actual criminal trial begins with the opening statements by the prosecution and the defense. Generally these opening statements are brief and are designed to set the stage for the trial. For example, the capable prosecutor will usually outline the state's case against the defendant in simple terms. The prosecutor will describe the alleged criminal offense and will inform the jury as to how the prosecution intends to prove the defendant's guilt. The defense attorney who decides to make an opening statement will usually indicate what defenses will be set forth.

The State's Case-in-Chief

After opening statements have been made, it is the prosecutor's obligation to present his case against the defendant. To fully understand the criminal justice process, you should keep in mind that it is the state's obligation to prove a defendant's guilt: it is not a defendant's obligation to prove that he is not guilty. The burden of proof is on the state. To meet the burden of proof, the prosecution begins its case-in-chief by calling its witnesses. Witnesses are required to testify under oath. Prosecution witnesses are subjected to direct examination by the prosecutor and, in conclusion of that direct examination, the defense counsel is entitled to cross

examine those witnesses. In simple criminal cases very few witnesses may be called. In complex criminal cases -- such as major fraud or white collar crime cases, the prosecution may call many witnesses. Each witness is called with the purpose in mind of establishing certain facts in the minds of the jury. In each case the defense is given the opportunity to cross examine witnesses. Cross examination gives the defense the opportunity to establish facts contradictory to those brought out against direct cross examination and to impeach the credibility of the witnesses. At the conclusion of the state's case, the state rests. It is at this point in the trial that the defense has an opportunity to present its case.

Defense Case

In some cases the defendant, on advice of counsel, will decide not to testify. In other cases the defendant and the defendant's witnesses will take the witness stand and be subjected to direct examination by the defense attorney. As is the case with the prosecution witnesses, defense witnesses are also subjected to cross examination by the prosecutor. After presenting its testimony, the defense rests.

Rebuttal

At the conclusion of the defense's case, the prosecution is entitled to call rebuttal witnesses. These are special witnesses whose testimony will attack statements and facts presented during the defense's case. Rebuttal witnesses -- like other witnesses -- are subjected to cross examination.

Final Argument

At the conclusion of the trial, attorneys for the prosecution and defense make their final arguments to the jury. Normally, the prosecutor gives his final argument first and is followed by the defense attorney. The prosecutor also has an opportunity to rebut the defense's final argument: in other words, the prosecutor has the right to close the case and has the final word before the jury begins its deliberations. A unanimous verdict is required by law. If the jury is unable to agree on a verdict, a hung jury is declared by the judge and the case may be retried if the state desires.

It is important to remember that the state -- in other words the prosecution -- must prove its case beyond a reasonable doubt. That means that the state bears the burden of proving its case. As indicated above, it is the state's obligation to prove that a defendant is guilty -- the defendant is not required to prove that he is not guilty. A not guilty verdict, therefore, means that the state has failed to prove its case beyond a reasonable doubt.

Jury Instructions

At the conclusion of the trial it is a judge's obligation to instruct the jury. Normally, a judge will inquire of the prosecution and the defense as to what specific instruction they recommend that the judge give to the jury. The judge will weigh either the oral or written recommendations for jury instructions from the prosecution and the defense before making a final decision as to how to instruct the jury.

The jury will be reassembled and the judge will make his charge to the jury. His charge to the jury will contain the jury instructions. Generally the charge and instructions include the judge's statements about the law and about the jury's duty in this particular case. Commonly, the judge will inform the jury that they may find the defendant guilty of a specific crime or crimes if they find that he committed certain acts. The judge also informs the jury that if they find that the defendant did not commit certain acts they must find him not guilty.

Felonies and Misdemeanors

The foregoing discussion has focused on the way in which violence, or serious crimes, are processed through the criminal justice system. Felonies are those serious crimes such as homicide, robbery, burglary, rape, grand theft, aggravated assaults and arson. Punishment for a felony may be severe and would include incarceration in a state prison.

Less serious crimes are called misdemeanors and usually carry a potential penalty of one year's incarceration in the county jail. Common misdemeanors would include petty theft, some traffic charges, simple assault.

Finally, misdemeanors are tried in municipal courts located in various communities throughout our county. A misdemeanor case might typically begin when a police officer on patrol observes someone who is apparently driving a motor vehicle while under the influence of intoxicants. Assume that a police officer stops the driver of that vehicle and writes a traffic citation. The officer would file that traffic citation directly with the municipal court and the prosecutor for that municipal court would bring that matter on for trial. In our state defendants who are convicted of misdemeanor charges in municipal courts have a right to a trial de novo (a new trial) in the district court.

CHAPTER II

NOTIFICATION SYSTEMS

The prosecution of a criminal case is often a protracted, delay-fraught matter. Nonetheless, crime victims and witnesses are rarely kept informed of case developments in a systematic way or even told the final verdict. All too frequently witnesses come to court only to wait all day to testify or worse, only to learn that the case has been continued and that they will have to return another day. Citizens may reach the justifiable conclusion that the criminal justice system cares little about their convenience or interest.

Surveys of the National District Attorneys Association Commission on Victim Witness Assistance indicate that citizens most often cite these problems when they are asked what improvements they, as victims and witnesses, would most like to see in the criminal justice system. Fortunately, these are problems that a District Attorney can readily address through a comprehensive notification system.

The ideal notification system has two components: a series of letters which keep victims and witnesses advised of important case developments, and a telephone alert, or "on-call" program designed to eliminate unnecessary trips to court and unnecessary delays in court. The system can employ either manual or electronic data processing procedures.

An efficient notification program is one of the most important services a District Attorney can offer the citizens of his community. First, it fulfills what the National District Attorneys Association on Victim Witness Assistance considers the criminal justice system's duty to keep its clients advised of case proceedings. Second, it enhances the citizen's sense that his participation in the system is important and appreciated.

In the long run, widespread public knowledge that the criminal justice system cares about crime victims and witnesses will increase confidence in that system and thereby increase the likelihood that individual citizens will "get involved."

Mail Notification

Most victims and witnesses are interested in the prosecution and its outcome. In Commission surveys, between eighty and ninety percent of the victims and witnesses replied they wanted to know the disposition of their case, and the sentence the defendant received. In the majority of cases, however, they said they were never told the outcome.

The immediate goal of the letter notification system is to keep crime victims and witnesses informed of each major development as it occurs in

their case. This can be accomplished through a series of form letters mailed to victims and witnesses at each stage of the case. If integrated with a telephone alert program, it can also help witnesses avoid unnecessary trips to court.

The complete notification system described in this section is ideal. Like many ideals, it can be costly, both in staff and postage costs. But the system is made up of integrated components, each of which is capable of being used separately. Thus the District Attorney, if forced to a choice, can decide which components will best serve his office and his community.

For example, if the office has a telephone alert program, it can eliminate those letters which merely confirm telephone contacts. Charging letters need not be mailed, especially if the victim or witness will learn fairly soon afterwards -- usually by subpoena -- that a criminal case has been filed. It may prove less expensive, if there are regular slack periods for the victim witness staff, to inform victims and witnesses of case developments by phone rather than by letter.

There are approximately eight or so letters that comprise the core of a mail notification system. Each can be printed or photocopied with appropriate blanks for individual case date, and body information. Then, if possible, the personal touch of such a notification system means much more to the persons concerned. The use of an automatic typewriter, computer or, a manually typed letter can supply this quality of service.

* Each of these letters and its purpose is described in the following section:

1. Confirmation Letter: The confirmation, or "charging" letter informs the victim or witness that a formal criminal charge has been filed against the defendant, either by information or by grand jury indictment. In many cases, a witness will be unaware that prosecution has been initiated until subpoenaed for trial. This letter eliminates that surprise.
2. Subpoenas by Mail: A number of the Commission's jurisdictions serve subpoenas by mail rather than by hand. While the legal sufficiency of mailed subpoenas may be open to question in some jurisdictions, those offices that employ the system have found that it saves expense of personal service without affecting the compliance rate of the witnesses.

A return mailer can be included with the mailed subpoena. Personal service can be made on those witnesses who do not return the mailer to confirm their court appearance. Then, only those witnesses who cannot be reached by phone need to be served by a marshall, sheriff, or police officer. (B-2)

* Sample letters are appended

3. Notice of Continuance: This letter notifies the witness that his case has been continued and informs him of the new trial date. If combined with an on-call system, it can continue the witness on telephone alert. It can also suggest that witnesses call the District Attorney to be placed on alert. In some instances, this letter can eliminate the need to issue a new subpoena. (B-3)
4. Notice of Plea of Guilty: Most criminal cases are settled with a plea of guilty, either to the offenses charged or to lesser charges. In many cases the plea will be taken or arranged before the trial date, eliminating the need for the witness to attend court.

In these instances, letters should be sent to all witnesses thanking them for their cooperation and informing them of the result. In cases where the defendant pled to a lesser charge, the letter should include a brief explanation of the reasons why the District Attorney accepted the plea. Explanations can be standardized, and can stress the fact that even though the defendant pled to a lesser charge, he has still subjected himself to penalties. (B-4-1) (B-4-2)

5. Finding of Guilty: In cases where the defendant has been convicted after trial, the District Attorney may write witnesses to thank them for their cooperation and to stress the community's appreciation of their participation. We suggest that the final "disposition" be included to avoid added expense for a second mailing. (B-5)
6. Finding of Not Guilty: To a prosecution witness convinced after testifying of a defendant's guilt, a finding of not guilty in the face of his testimony can approach a personal affront. In his letter informing the witness of the acquittal, the District Attorney should emphasize the heavy burden of proof imposed in criminal cases, and the importance of proving the case beyond a reasonable doubt. Each person testifying in this case should be thanked for their cooperation and encouraged to participate and have confidence in the criminal justice system. (B-6)
7. Sentencing: Commission surveys indicate that nearly ninety percent of victims and witnesses want to know the sentence received by the defendant in their case. It is preferable if notice of the sentencing is included in letters informing the witness of a guilty plea or trial conviction. In cases where sentencing is delayed substantially after conviction, however, the District Attorney may want to send the witness a separate letter briefly describing the sentence imposed. (B-7)

NOTE: Some offices choose not to send out sentencing letters and simply mail disposition notifications as soon as the judgment of conviction is entered. They reason that sentencing is within the judge's discretion.

8. Miscellaneous: A number of specific situations arise regularly that nevertheless do not ordinarily merit separate letters. Instead, the District Attorney can add paragraphs to other letters to tell victims and witnesses of additional services available to them. These include property return, state compensation plans, witness fees, and restitution by the defendant to the victim. (B-7)

NOTE: All of the above mentioned notification letters should include the notifying of police officers involved in the case.

Procedures

The Commission has found two efficient methods that a victim witness program can use to keep its clients informed of developments in each case. The first involves the regular routing of case files through the unit. The second is for the unit's staff to collect the data themselves from each court part, recording it on forms designed for that purpose.

The District Attorney must decide which method will best serve his office. The first may disrupt the office's established ways of handling case files, but will allow the unit to insert its own record keeping form in the case jacket. The second leaves present routing systems intact, but will involve a certain amount of duplicate record keeping by the victim witness project.

1. If the District Attorney's file clerks routinely mail out charging letters to all victims and witnesses, the first time the victim witness unit sees case files is in the event of a continuance. (The project, of course, may already have contacted the witness after a preliminary hearing or grand jury appearance, by a mail subpoena system, or in connection with a telephone alert.)

The continuance letter should be sent to the witness as soon as feasible after the postponement, and if possible should include the new trial date. If the witness has been informed of the continuance by phone, the letter can simply confirm the new date. Once the letter has been mailed, the unit's staff should enter its date on the notification sheet and initial the entry. It should rarely be necessary for the unit to hold the case files for more than a day.

This procedure can be followed for all subsequent notification letters. At the close of the case, the unit staff should review the notification sheet to be certain that all appropriate letters have been sent, sign off on the sheet, and include it as part of the permanent case file.

See the suggested "victim witness notification sheet." (A-1) (A-2)

2. The District Attorney may prefer to have unit staff collect case data directly from the trial assistant in charge of each case, eliminating the need for the case files to be routed to the unit. It is still possible under this procedure to have the office's file clerks mail out charging letters as part of their regular routing.

Under this procedure, staff of the victim witness unit collect data from individual trial assistants and record it on forms designed for that purpose. The form is then passed on to the project's secretary to prepare and mail the appropriate letters. The Commission has found that this system works best when unit staffers are assigned to serve the same parts of court each day.

The unit should still devise a "reviewed and closed" form to be included in the file of each case. The file clerk, before closing a case, can check each jacket to see if the form has been included. If not, the case jacket should be returned to the unit to be checked further.

Mail

A complete notification system can be expensive to run. Postage costs alone are substantial. For example, one Commission office in a city of slightly more than half a million persons, sends out about 2,500 pieces of mail monthly, with postage costs of \$300.00 to \$400.00.

The notification system operates best if it uses a postage meter rather than stamps. Letters to city employees should be sent via inter-office mail.

A good deal of mail is returned, for a variety of reasons. The unit should note the reason for return and try to find a new address for the witness. If this proves fruitless, the letter and the envelope should be attached to the witness notification sheet and entered in the file.

A great deal of emphasis has been placed on the use of the notification systems as a service to keep victims and witnesses informed on matters pertaining to their case. This method not only satisfies their "need to know," but gives credence to the District Attorney in his efforts of improving the image of the criminal justice system.

VICTIM WITNESS ASSISTANCE PROGRAM

M E M O R A N D U M

TO: HERB JONES

FROM:

REFERENCE: NOTIFICATION OF WITNESSES

Please notify the following persons, as indicated on the attached list, the proceedings of this case, STATE vs _____
_____ Case No. _____.

- () The trial has been continued until _____, 197__
at _____ A.M., P.M.
- () The defendant was found guilty of _____
- () Defendant will be sentenced on _____
- () Defendant was sentenced on _____
- () Defendant was sentenced to _____
(Probation, Angola, Parish Prison, Probation, length of time)
- () Defendant pled guilty to _____
- () Defendant was found not guilty (Please indicate reason on back of this sheet.)
- () Employer of Witness -- EMPLOYER _____
ADDRESS _____ ZIP _____
EMPLOYEE'S NAME _____
- () Please call these witnesses to remind them about the trial of
STATE vs _____ on _____, 197__
at _____.

Listed below are people to be contacted as checked for the reason(s) listed above, but are not on the witness list.

	<u>NAME</u>	<u>ADDRESS</u>	<u>PHONE</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____

VICTIM WITNESS NOTIFICATION SHEET

Defendant _____

Case No. _____

Date of Offense _____

VICTIM or WITNESS _____

Address _____

Telephone (home) _____ (work) _____

LETTERS

Date Mailed

CHARGING LETTER

TRIAL DATE

NOTICE OF CONTINUANCE

To 1.

2.

3.

PLEA

FINDING OF GUILTY

DISMISSAL

ACQUITTAL

SENTENCING

MISCELLANEOUS

Property Return
State Compensation
Witness Fee
Restitution
Other

COMMENTS

REVIEWED AND CLOSED



National District Attorneys Association

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1900 L Street, N. W., Suite 607, Washington, D.C. 20036 • (202) 872-9500

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Dear _____:

We have instituted a subpoena-by-mail system in an attempt to reduce the amount of time and money spent by police agencies in serving subpoenas. I am sure you will agree this system will result in a savings and better utilization of police services.

Attached is a subpoena which is an official court order for you to appear at the time and place indicated. Failure to appear constitutes contempt of court. Please bring this subpoena with you when you come to court.

Your cooperation is necessary in a case currently scheduled in the _____ Court. In order for our criminal justice system to function properly, your cooperation is necessary.

We realize that this court attendance may create an inconvenience for you and sometimes court hearings cannot always take place as scheduled. To reduce the possibility of an unnecessary appearance, please immediately contact _____ (name) in the District Attorney's office at _____ (telephone number).

Thank you for your cooperation.

Sincerely,

(District Attorney)

Attachment - Subpoena

SAMPLE LETTER B-2: SUGGESTED SUBPOENA-BY-MAIL SYSTEM



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PEOPLE vs _____

CASE NO. _____

COURTROOM _____

Dear _____ :

This is to confirm our recent telephone conversation regarding the continuance of this case. We regret any inconvenience which you may have experienced by this delay and we are grateful for your continued cooperation.

The trial has been rescheduled for _____ at _____ a.m. The judge has also continued your subpoena to that date and time. Normally you would have to be present in the courtroom listed above on this new date. However, for your convenience, we have devised an "on call" system which you can use if you will be available by phone on the date of trial. When placed "on call" you need not appear in court until you receive a call from our office. If you are not called by 3:00 p.m. on the trial date, you may consider yourself excused until you receive further notice. We must have a current telephone number at which you may be reached on the trial date, and you must be able to respond to the court on no more than one hour's notice. If you want to be placed "on call," please contact our office at (telephone number).

If you do not place yourself "on call" we will expect you to be present at the above date and time. Thank you for your cooperation.

Yours truly,

(District Attorney)

SAMPLE LETTER B-3: NOTICE OF CONTINUATION



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PEOPLE vs _____

CASE NO. _____

COURTROOM _____

Dear _____:

This is to confirm our recent telephone conversation regarding the completion of this case. As I indicated at that time, the defendant pled guilty as charged.

Consequently, there will be no trial in this case and the judge will sentence the defendant in the next month. You may disregard any subpoena received in this case. If you should be contacted by the Probation Department during this period, please cooperate with them.

We could not have secured this conviction without your assistance and cooperation. Even though this matter did not reach trial, your role was an important one because the availability of witnesses strengthens the District Attorney's case.

We hope that you have not been inconvenienced too much in fulfilling your responsibility as one of the witnesses. If you still have questions regarding the outcome of the proceedings, please do not hesitate to call upon us.

Again, thank you for your support and cooperation in this case.

Very truly yours,

(District Attorney)

SAMPLE LETTER B-4-1: NOTICE OF GUILTY PLEA AS CHARGED



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Rockville, Maryland

Dear _____:

I wanted you to know that the case of the People of the State of _____ vs _____ resulted in a plea of guilty by the defendant to _____, a lesser offense than originally charged. By pleading guilty to this offense the defendant subjected himself to a possible penalty of _____. It was this consideration, among others, which prompted the District Attorney's office to accept the defendant's plea of guilty.

If you have any questions concerning this case or your experience with the criminal justice system, please do not hesitate to contact me.

Very truly yours,

(District Attorney)

SAMPLE LETTER B-4-2: NOTICE OF GUILTY PLEA TO LESSER OFFENSE



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Rockville, Maryland

Dear _____:

I would like to personally express my appreciation and that of this office for the help and cooperation you gave me in presenting the case of the People of the State of _____ vs _____ (defendant). The Court, the jury and I found your testimony to be honest and forthright.

The defendant was found guilty on _____, and the Court has set _____ (date), as the date for sentencing.

It is important that people such as yourself maintain an interest in the judicial system. Without your assistance and cooperation, we would not have been able to secure a conviction in this case. If you have any special problems as a result of your experience or any questions concerning the criminal justice system, please feel free to contact me or the Victim Witness Assistance Bureau in the District Attorney's office.

Very truly yours,

(Deputy who presented the case)

SAMPLE LETTER B-5: NOTICE OF FINDING OF GUILTY



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Rockville, Maryland

Dear _____:

I wanted you to know that on _____ (date), the jury (or the Court) found the defendant _____ (name), not guilty of _____ (crime). This means the jury found there was a reasonable doubt that the defendant had committed the crime as charged. The burden of proving a criminal case "beyond a reasonable doubt" is not an easy one. It is intentionally made that way to reduce the possibility of innocent persons being convicted. The important thing is that, with your help, we vigorously prosecuted this case within the framework of our criminal justice system.

In being a witness you have fulfilled a most vital and necessary function within our system. You have been invaluable to us during the process of this case. We truly thank you for all of your assistance and cooperation. It is understandable that the jury verdict may seem confusing to you. If you have any questions please do not hesitate to contact me. Again, thank you very much.

Very truly yours,

(Deputy who presented the case)

SAMPLE LETTER B-6: NOTICE OF FINDING OF NOT GUILTY

SAMPLE ADDITIONAL PARAGRAPHS FOR
SPECIAL NOTIFICATION LETTERS

The following paragraphs may be used where appropriate in notification letters.

PROPERTY RETURN: If you have any property that was retained for evidence by (Police Department) or the District Attorney's office, it may now be returned to you. Please contact by telephone _____ (name) at (telephone number) to arrange for the return of your property, or _____ (name) at the District Attorney's office.

SENTENCING: _____ (defendant) will be sentenced on _____ (date) in Department Number _____, _____ County Superior Court by Judge _____.

STATE COMPENSATION: In the event that you are unaware of it, there is a state compensation program to aid victims of crimes and their dependants. To be eligible for financial assistance under this program, a victim of a violent crime must have suffered death or physical injury as a direct result of the crime. In addition, the death or physical injury must have resulted in serious financial hardship to the victim or his dependants. Application forms for this program may be obtained at your local police department or by contacting this office.

RESTITUTION: The Court ordered the defendant to pay restitution. If you have any questions, please contact the Adult Probation Department at _____ (telephone number).

WITNESS FEE: You are entitled to a "Witness Fee" of \$ _____ to cover your expenses in connection with this court appearance. Please contact _____ (name) of this office on the day you appear and payment will be arranged.

CONCLUSION: In being a witness you have fulfilled a vital and necessary function in our judicial system. You have been invaluable to our office during the process of this case.

SAMPLE LETTER B-7: SPECIAL NOTIFICATIONS

NEW PROGRAM NOTIFICATION

National District Attorneys Association
Commission on Victim Witness Assistance
1900 L Street, Northwest, Suite 607
Washington, D. C. 20036

This is to notify you that the following Victim Witness Assistance Program is now in operation.

PROGRAM DIRECTOR AND TITLE: _____

PROGRAM DIRECTOR'S PHONE NUMBER: _____

PROGRAM TITLE AND ADDRESS: _____

SPONSORING AGENCY: _____

SERVICES: _____

PROSECUTOR'S NAME, ADDRESS, PHONE NUMBER: _____

Sincerely,

PROGRAM NOTIFICATION CHANGE(S) FORM

National District Attorneys Association
Commission on Victim Witness Assistance
1900 L Street, Northwest, Suite 607
Washington, D. C. 20036

This is to notify you of the following changes in our
Victim Witness Program:

1) Change of Program Name _____

2) Change of Program Director _____

3) Change of Address or Phone Number _____

4) Other _____

Very truly yours,

(signature/title)



NATIONAL DISTRICT ATTORNEYS ASSOCIATION
COMMISSION ON VICTIM WITNESS ASSISTANCE

1900 L Street, N. W., Suite 607
Washington, D. C. 20036
(202) 872-9504

PROJECT DIRECTOR HERBERT C. JONES

STAFF

Susanne Berman
Deborah Lockett

