

Missouri Association of Prosecuting Attorneys

Victim Rights Best Practices Subcommittee (Victim communication and Preparation) (Approved August 2014)

Note: A best practices recommendation of the Missouri Association of Prosecuting Attorneys is the product of careful consideration by experienced prosecuting attorneys. However, it is only a recommendation. A best practices recommendation may or may not be feasible in every case or in every county. There may be other methods in local jurisdictions to reach the same or similar objectives.

RECOMMENDATION #1: Absent extenuating circumstances, a prosecutor should complete review of any law enforcement referral within three business days.

Commentary: Pursuant to the Missouri Constitution, crime victims have the right to a speedy disposition of their cases. No case can be disposed of in a speedy manner unless the review and charging decision is completed promptly. The review can result in declination of charges, filing of charges, or a request for additional investigation or information to be provided within a specified timeframe. While the statute of limitations is the ultimate time standard under the law, prosecutors should make decisions on cases as soon as practicable.

RECOMMENDATION #2: Crime victims should be notified at the time a charging decision is made. Crime victims should also be notified if the prosecutor decides to request additional investigation or information from law enforcement prior to making a charging decision. Unless a crime victim's safety or the status of an investigation would be jeopardized, written communication of this decision should be sent to the crime victim's last known address.

Commentary: It may be appropriate in certain cases to notify the victim in person, by phone, or by other means. This recommendation complies with sections 595.209.1 (3) and (10), RSMo.

RECOMMENDATION #3: A prosecutor should meet with a crime victim each time prior to a crime victim offering testimony. A prosecutor should also meet with a crime victim upon request.

Commentary: No crime victim should ever testify without having had the opportunity to meet with a prosecutor and discuss what will happen prior to testifying. A prosecutor should make time for crime victims to speak their mind, voice any concerns, and ask any questions they may have prior to testifying. A prosecutor should include an additional staff member such as an investigator or victim advocate in meetings with victims. An additional staff member should be present in addition to the prosecutor in the event a statement by a crime victim needs to be reduced to writing and disclosed to the defense. Doing so may avoid the prosecutor becoming a necessary witness in a case.

RECOMMENDATION #4: A prosecutor should provide crime victims information on how to request the rights provided by the Missouri Constitution and state statutes.

Commentary: Section 32.1(8) of the Missouri Constitution grants crime victims the right to information about how the criminal justice system works. Section 595.209, RSMo, sets out the procedure for crime victims to obtain this information, which includes a request in writing. It is fundamentally important to inform victims of their rights to request in writing the benefits of section 595.209, RSMo.

RECOMMENDATION #5: Notification should be given to crime victims within three business days of the setting of court dates for bond hearings, preliminary hearings, grand jury sessions, depositions, 491 motions, bench or jury trials, guilty pleas, sentencing, and probation revocation hearings. Whenever possible, a prosecutor should ask for a court date or time that accommodates a crime victim's schedule.

RECOMMENDATION: Crime victims should be apprised of the right to be heard at any bond hearing or sentencing hearing. Crime victims should be given the opportunity to meet in person with a prosecutor prior to any bond hearing or sentencing hearing to discuss what they wish to express and the manner in which they wish it to be expressed

Commentary: Some crime victims will wish to express their thoughts in person, by letter to the court, via the prosecutor, or some other manner. Prosecutors should make every reasonable effort to accommodate crime victims' wishes in this regard.

RECOMMENDATION: A prosecutor should make a reasonable effort to seek input from a crime victim about the disposition of a case prior to making a plea recommendation.

Commentary: Missouri law provides crime victims the right to be heard, and good communication with a crime victim is critical so that a prosecutor can make an informed decision regarding disposition of a case by plea. Relevant factors for discussion could include: (1) the range of punishment; (2) factors that impact a plea recommendation; and (3) a reasonable effort to gather information from a crime victim.