



# VICTIM WITNESS ASSISTANCE PROGRAM SURVIVORS OF HOMICIDE VICTIMS

# RESOURCE MANUAL

**3<sup>rd</sup> Edition**

**Suffolk County District Attorney's Office**

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## The Purpose Of This Manual

The death of your loved one was not natural or expected. The knowledge that your loss was caused by another person's actions and the knowledge that your loved one experienced an intentional death are profoundly traumatic. In addition, your grief process can be interrupted, delayed, and intruded upon by many circumstances including:

- **The Media**
- **The Police Investigation**
- **Vigilance about the Court Process**
- **Attending Court Dates and Meetings**

After a homicide, you will experience many different reactions, emotions, and exposure to things you have not anticipated. Your family may lose much needed privacy. You may find out new information about your loved one that may be difficult and challenging to hear throughout the course of the investigation. This information may be detailed or misrepresented by the media or later by the defense attorney during the trial.

Homicide is very isolating and difficult to make sense of. Even well-meaning people may say things that are incredibly hurtful to your family. They may compare homicide to other types of expected deaths. They are not the same. Support from family and friends may drop off several months after the murder, just when you and family members may be having their most difficult time. Others may set artificial timetables and impose unrealistic pressures on recovery and resumption of "normal" behavior. Reactions to homicides are individualized experiences and there is no specific way or timetable in which one is supposed to react or recover from the trauma inflicted by homicide.

This manual is meant to be a helpful resource to you as you navigate the difficult terrain of homicide bereavement and the many systems with which you become intertwined after the murder of someone you love.

Our greatest hope is that this manual will be a helpful resource as you begin your journey with us – a difficult journey and a long one, but one that you will not make alone.



# Your SCDAO Team

Please use this page to keep track of your Suffolk County District Attorney's Office team and important contact information.

## SCDAO Homicide Unit

**Homicide Unit Telephone: 617-619-4242 | Fax: 617-619-4254**

Chief: \_\_\_\_\_

Deputy Chief: \_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

VWA: \_\_\_\_\_

ADA: \_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

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## Police Department

Detective: \_\_\_\_\_

Victim Specialist: \_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

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## Victim Witness Assistance Program

Chief: \_\_\_\_\_

Deputy Chief: \_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_

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## SCDAO Homicide Unit

Chief: \_\_\_\_\_

Chief: \_\_\_\_\_

Telephone: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_



# Victim Witness Assistance Program

The mission of the Suffolk County District Attorney's Office Victim Witness Assistance Program is to assist victims and witnesses in navigating the criminal justice system. Providing support and keeping victims and witnesses informed is critical to the prosecution of every case. The primary goals of the Victim Witness Assistance Program are to:

- assist victims in their recovery from victimization and restoring a sense of safety;
- reduce the level of re-victimization associated with the aftermath of crime and participation in the criminal justice system;
- assist in the prosecution of criminal cases by ensuring that victims, witnesses, and families are afforded the rights and services mandated by the Massachusetts Victim Bill of Rights (M.G.L. Chapter 258B).

## Language Capacity

Our Victim Witness Assistance Program offers services in English, Spanish, Cape Verdean Creole, French, Haitian Creole, Portuguese, and Vietnamese. Although not every member of our staff is bilingual/bicultural, our program is committed to offering the survivors of Suffolk County the balance of highly trained advocates and linguistic competence. We can and will meet other language needs not referenced above through the Office of Court Interpreter Services.

## Confidentiality Policy

All staff and interns within the Victim Witness Assistance Program must uphold strict confidentiality in accordance with the Suffolk County District Attorney's Office (SCDAO) office-wide standards. Advocates and interns are prohibited from disclosing any privileged information to anyone other than as required by their official responsibilities, and are prohibited from using such information to obtain benefits (financial or otherwise) for themselves, their families or friends, or any other person. However, VWAs and interns must relay all exculpatory information to the Assistant District Attorney (ADA) assigned to their investigation or active criminal case immediately.

## Victim-Witness Feedback & Grievance Policy

The Suffolk County District Attorney's Office welcomes feedback and is committed to serving and listening to the concerns of victims, witnesses, and survivors. If at any time you have any concerns regarding the services you are receiving from the Victim Witness Assistance Program, believe that you have not been afforded the rights and services mandated by the Massachusetts Victim Bill of Rights (M.G.L. Chapter 258B), or wish to provide feedback please contact:

***General Counsel Suffolk County District Attorney's Office | Telephone: 617-619-4000***

All grievances are taken seriously and are responded to promptly. Your feedback will help facilitate and enhance better services to those in Suffolk County. If you would like to provide feedback and it involves a specific employee, please include their name, and the case number if appropriate. Grievance forms are available upon request.

# Homicide Unit

The death of a loved one from violence can be among the most devastating experiences a person may face in their lifetime. Homicide prosecutors work closely with local and state police detectives, and sometimes federal agents to build the best case possible whenever a life is taken. Victim Witness Advocates are immediately assigned to every case and remain throughout the duration of the case including the appeal and parole process.

## Project For Unsolved Homicides (PUSH)

The office is committed to all homicides and recognizes that cases that have yet to be solved weigh particularly heavily on the hearts of the families of those affected by violence. In honoring our promise to make progress on the more than 1300 unsolved homicide cases in Suffolk County, District Attorney Rollins launched the Project for Unsolved Suffolk Homicides (PUSH) to administratively review unsolved homicides dating back to 1960. The mission of PUSH is to honor the humanity of victims by attempting to ensure accountability. Closure can never be a substitute for a life lost, but the hope is to address some of the uncertainty that loved ones of victims of homicides experience. We have had several cases, from decades past, solved and indicted. We are deeply committed to increasing that number.

## Victim Witness Advocates, Homicide Unit

VWAs in the Homicide Unit work with survivors of homicides, motor vehicle homicides, and unsolved cases within the PUSH initiative, and with victims and witnesses of violent crimes. Advocates are trained in crisis-intervention and assist survivors beginning shortly after a homicide occurs, whether it is solved or unsolved. Advocates also offer referrals, education, and resources to individuals looking to connect to social service agencies. They also provide emotional support and information about the criminal court process in the event of a criminal prosecution. VWAs must ensure victims receive the rights and services to which they are entitled under the Victim Bill of Rights.



**Pictured above:** DA Rollins with some of the outstanding SCDAO VWAs at the 2019 Annual Breakfast for Survivors of Homicide Victims.



# Victim Bill Of Rights

The Massachusetts Victim Bill of Rights (M.G.L. Chapter 258B) provides certain rights and services to crime victims and survivors in order to ensure a meaningful role for them in the criminal justice system. While the Bill of Rights applies to all crimes, victims and survivors of violent crimes are given priority status for services. Rights afforded to victims include:

## **The Right to be Informed about Victim Rights and Services in the Criminal Justice System:**

- You have the right to be informed of how a criminal case progresses through the system, what your role is in the process, what will be expected of you, and why.
- You have the right to be informed of rights and services available to victims in the criminal justice system.
- You have the right to assistance in applying for social services, financial assistance, and certification to receive information about an offender that is not available to the general public.

## **The Right to Receive Specific Information About the Criminal Case Involving You:**

- You have the right to be updated on significant developments in the case.
- You have the right to be notified in a timely manner of any changes in schedule for court appearances for which you have been ordered to appear.
- You have the right to be notified of the final disposition of the case, including an explanation of the type of sentence imposed and a copy of the conditions of probation, if any.
- You have the right to be notified by the offender's supervising probation officer whenever that offender seeks to change a restitution order.

## **The Right to be Notified of an Offender's Release or Status While in Custody:**

- Upon request, you have the right to advance notification whenever the offender is moved to a less secure correctional facility.
- Upon request, you have the right to advance notification whenever the offender receives a temporary, provisional, or final release from custody.
- Upon request, you have the right to immediate notification whenever the offender escapes from custody.
- You have the right to be informed by the Parole Board of the offender's parole eligibility.
- If eligible, you have the right to obtain additional information about the offender, such as a criminal record or the offender's compliance with the terms of a sentence.

### The Right to Other Protections in the Criminal Justice System:

- You have the right to request confidentiality during the court proceedings for yourself and family members with respect to personal information such as home address, telephone number, school, and/or place of employment.
- You have the right to certain protections by law enforcement from harm or threats of harm caused by your cooperation with the court process.
- You have the right to be provided with a safe and secure waiting area, which is separate from the defendant and the defendant's family, during court proceedings.
- You have the right to a prompt disposition of the criminal case involving you.
- You have the right to refuse or agree to participate in interviews with the defense team before trial, or to set reasonable conditions on the conduct of any such interview if you choose to be interviewed.
- You have the right to request intercession by the prosecutor's office with your employers or creditors if the crime or your involvement in the court process causes problems in meeting work or payment obligations.
- If you are a survivor of a homicide victim, you have the right to bring a small picture of your loved one into the courtroom.
- You have the right to receive referrals for assistance to statewide resources and local social service agencies.
- You have the right to have property seized as evidence returned to you as soon as possible once it is no longer needed for law enforcement purposes.







# Victim Compensation

Violent crime has a devastating impact on victims and their families. All too often, physical pain and psychological trauma are accompanied by mounting medical bills, lost wages, and other expenses. No one should suffer a financial setback because of violent crime.

The Victim Compensation Program uses funds obtained from assessments on criminal cases to provide financial assistance, up to \$25,000 per crime, to help victims pay for uninsured medical, dental, and counseling expenses, as well as funeral and burial costs, and lost income. While no amount of money can compensate for a violent crime, victim compensation can provide crucial financial help.

## Who Is Eligible?

- Victims of violent crime occurring in Massachusetts.
- Dependents and family members of homicide victims.
- Any person responsible for the funeral expenses of a homicide victim.

## What Are the Requirements?

- The crime must have been reported to police within five days, unless there is good cause for delay.
- You must cooperate with law enforcement officials in the investigation and prosecution of the crime unless there is a reasonable excuse not to cooperate.
- You must apply for compensation within three years of the crime. Victims under the age of 18 at the time of the crime may apply until age 21, or later in certain limited circumstances.
- Your out-of-pocket expenses must exceed \$100, unless you are over age 60 or a victim of rape.

## What Expenses Are Covered?

To the extent insurance or other funds do not cover your expenses, you may be reimbursed for:

- Medical and dental expenses (including equipment, supplies, and medications)
- Counseling expenses (for victims, family members of homicide victims, and children who witness violence against a family member)
- Funeral/burial costs
- Lost wages (for victims only)
- Loss of financial support (for dependents of homicide victims)
- Homemaker expenses
- **Expenses not covered:** property losses, pain and suffering, and all other expenses.

Your victim witness advocate in the Homicide Unit is thoroughly trained to assist you and your family in filing for this compensation.

# Trauma

When a person goes through an event that is harmful to their well-being, this experience can continue to impact them well after the event has occurred. This event can leave them with a sense of helplessness, powerlessness, fear, hopelessness, and/or a feeling of a loss of safety, whether physical or emotional. This is known as trauma. The experience of losing a loved one to homicide can result in you experiencing traumatic symptoms that are hard to understand and make sense of. Reactions may happen right away or may be delayed. Everyone's experience will be different and there is not just one right way to respond. Having reactions to traumatic events is normal and expected. There are many that can be experienced after a homicide. Some common reactions that some may experience include:

- Fear
- Anxiety and depression
- Increased arousal
- Avoidance or isolation
- Uncontrollable feelings of anger
- Disinterest in things you enjoy
- Feeling tired or irritable
- Changes in appetite or sleep
- Increased heart rate
- Excess substance use
- Withdrawing/isolating
- Blaming self, feeling shame or guilt
- Difficulty with memory
- Difficulty planning and problem solving
- Re-experiencing trauma or flashbacks
- Challenges in relationships
- Mistrust of others



Healing from trauma is possible, and will look different for everyone. There are different supports available to help you address symptoms and reactions related to trauma. Including developing a self-care plan, staying connected to your supports, participating in support groups, and seeing a therapist. If you notice that the symptoms you are experiencing are getting worse, are not being controlled well, or that you are having trouble functioning in your personal or professional life, it is recommended that you seek additional support through a professional, such as a doctor or a counselor. We have included resources in this manual and your victim witness advocate can provide you some guidance on resources that may be helpful to you.



# Law Enforcement Partners



The first few hours, days, weeks and even months after a homicide are often a painful fog for survivors. You interact with many different agencies and organizations. It can be hard to remember what roles individuals play. This section is meant to help you understand the roles each agency will play in the investigation of your loved one's murder.

## The Suffolk County District Attorney's Office

**Homicide Unit: 617-619-4242**

The District Attorney's Office oversees all death investigations, including homicides, within Suffolk County. Suffolk County comprises Boston, the cities of Chelsea and Revere, and the town of Winthrop. The chief of the Homicide Unit will assign an assistant district attorney to your loved one's case immediately. A victim witness advocate is also immediately assigned.

## The Homicide Unit of the Boston Police Department

**Homicide Unit: 617-343-4470 | Victim-Witness Resource Officer: 617-343-5543**

The Boston Police Homicide Unit serves as the lead investigative group for homicides, suspicious deaths, fatal collisions, cases in which the victim may die as the result of a criminal act, as well as the investigation of the sudden death of infants and those apparently stillborn. The unit has an assigned officer and victim/witness advocate to assist families. Victim Witness Resource Officers assist to maintain positive communication between detectives and these survivors. They work directly with the District Attorney's Office.

## The Suffolk County State Police Detective Unit

**Suffolk County State Police Detective Unit: 617-727-8817**

The Suffolk County State Police Detective Unit investigates any homicide in Chelsea, Revere, and Winthrop and certain state jurisdictions within the City of Boston. They work with the assistance of local law enforcement agencies and directly with the District Attorney's Office.

# Medical Examiner's Office

The Office of the State Medical Examiner plays an important role in all homicide investigations. It performs the final internal and external examination of your loved one (called an autopsy) to determine cause of death (for example: gunshot, strangulation, suffocation) and manner of death (for example: homicide, suicide, accident, natural, therapeutic complication, and undetermined.)

## Making an Identification of Your Loved One

The identification of your loved one is incredibly painful. This section is designed to give you the information necessary to assist you during that process. Remember: Your victim witness advocate is available to assist you with crisis intervention and support.

## Location

The Office of the Chief Medical Examiner is located at 720 Albany Street in Boston, MA 02118.

## Hours of Operation

The Office of the Chief Medical Examiner is open 24 hours a day for accepting and releasing cases. The administrative offices are open from 8:30 a.m. until 4:30 p.m.

## What the Office Does

The Office of the Chief Medical Examiner determines the cause and manner of all unattended deaths within Suffolk County (Boston, Chelsea, Revere, and Winthrop). The agency accomplishes this through case investigations and through the performance of autopsies and laboratory studies, among other things.

## Call Regarding Identification

Call the main number (617-267-6767) and press "2" on the calling menu for "Case Release."

## How the Identification is Scheduled

The timing of when a viewing occurs depends upon when the autopsy is completed. The office is open 24 hours a day to accept and release cases. Ideally, you will be able to arrange a time between 8:30 a.m. - 4:30 p.m. However, the Medical Examiner's staff will try to be as accommodating of your needs as possible.

**You will need to bring your license or another form of photo identification.** If you would prefer, another member of your loved one's immediate family can assist you by making the identification. **They must also bring their picture ID.**



## **The Identification Process**

Once the Medical Examiner's Office determines that your loved one's death is a homicide, they will arrange an identification process through the detectives assigned to your investigation, your chosen funeral home, or directly with your family. Although it is possible that you will make identification in another venue, most identifications are done at the Medical Examiner's office.

The identification itself only takes a few moments. A technician will come out and give you an identification form to fill out. They will set up the viewing in the identification room for you. Please note: You will be unable to directly view your loved one and will instead be provided a photo for identification. You are allowed to bring other family, or a clergy member with you for support. Due to space constraints at the Medical Examiner's office, please try to limit the number of family members that come with you, if you can. The staff of the Medical Examiner's Office assists many people during this difficult experience and will help you and your family through this process.

## **Accessing Autopsy Reports**

In our experience, many families request the report out of a need to know if their loved one suffered, something the report is not able to define. Our office cannot release the report, but your assigned assistant district attorney may be able to discuss informally what this office knows about how your loved one died. Only the victim's legal next of kin are allowed access to the autopsy report, and it is accessible only through the Office of the Chief Medical Examiner.

You may request the autopsy report from the assistant district attorney without really knowing the nature of the document. The autopsy report is a lengthy and technical document. It lists your loved one's injuries and the results of both an internal and external examination of their body. We encourage you to think about what obtaining the autopsy results means to you as you process your grief. It is important that you know what you are requesting and what the emotional implications of reading the report will be for you and your family.

## **Policy of the Suffolk County District Attorney's Office**

Massachusetts law prohibits the District Attorney's Office from releasing an autopsy report even to the victim's family. Your victim witness advocate cannot release or read from the report to family or insurance companies. Insurance companies only need a death certificate to process the death benefit. When they seek an autopsy report, it may be to find a reason to reduce or deny the benefit.

## **Requesting Autopsy Report from the Office of the Chief Medical Examiner**

You can request a copy of the Autopsy Report directly from the Office of the Chief Medical Examiner. Your loved one's legal next of kin must make the request of the Medical Examiner's Office in writing. There is no charge for the report. It takes a minimum of 8-12 weeks after the date of death to obtain the report. Unfortunately, sometimes it takes significantly longer.

Please speak with your victim witness advocate and assigned assistant district attorney before you request the autopsy report. The Office of the Chief Medical Examiner will require a written letter describing the state of the criminal prosecution from the District Attorney's Office before it will release an autopsy report. The victim witness advocate and assistant district attorney can assist you in obtaining such a letter. They may also be able to answer your questions with the assistance of the detectives assigned to your case. All the District Attorney's Office can do is send the letter to the Office of the Chief Medical Examiner. The District Attorney's Office has no control over whether the Office of the Chief Medical Examiner then chooses to release the autopsy report or when it does so.

*It is important to remember that the report is considered evidence in your loved one's case and there may be legal reasons, which the assistant district attorney assigned to your case will explain, why your request might be delayed.*

# Funeral Arrangements

## Funeral Expenses and Making Arrangements for Your Loved One

The Office of the Attorney General's Victim Compensation Fund may be able to assist you and your family with funeral expenses (limits apply). Please see the Resources Section for further information on the fund. Your chosen funeral home should be well aware of this fund and what it covers.

## Funeral Arrangements

Your chosen clergy member, family, and friends will all assist you in planning for your loved one's funeral arrangements. These suggestions are taken from The Funeral Arrangement Choice Guide by Dr. D. Allen Polen Jr. c.1996, Servant Publications.

## Do Not Hurry

Take the time you need to make the choices you must make. You do not have to hurry. These are important choices. Later, you will feel best about your choices if you make them carefully, and without rushing.

## Choose A Trusted Consultant-Friend

Because of shock, you are "not yourself" even if you think you are. Many people find it helpful to choose someone from among friends or family who is able to be a consultant or confidant through these difficult days.

- This person is someone who right now is more able than you to think clearly.
- This is someone with whom you may talk, check things out, discuss choices, and clarify your feelings and perceptions.
- This may be a person who has been through a similar experience.

## Call Your Clergy Person As Soon As Possible

Ask a nurse, your doctor, a neighbor, or friend to call. Where can this person tell your clergy person you will be? At the hospital? At home? At some other place?

## Choose a Funeral Director

A funeral director's purpose is to coordinate arrangements and to provide services and merchandise needed or chosen to care for the body. They can be also be a resource for information on bereavement and support groups. When you choose a funeral director, three practical considerations are important guidelines for your choice:

- Reference: Did the person who died ever express an opinion or preference about a funeral home?
- Reputation: Are people you trust, who have used a specific funeral home, willing to recommend it to you?
- Cost: Funeral home goods and services should be purchased only in accordance with a realistic assessment of your ability to pay for them. By law, funeral directors must provide cost information over the telephone.



## List People to Notify

What people (among both family and friends) do you want to be sure are personally notified before they read about the death in a newspaper or on social media? As you make or check the notification list, remember to consider the following categories of people:

- Family - emotionally close
- Friends that care - recent
- Family - emotionally more distant
- Friends that care - past
- Work associates of the deceased
- Work associates of primary survivors

## Record Personal History for Newspaper Obituary and Legal Documents

Most newspapers have fixed guidelines governing what they will include in obituaries. Many newspapers only accept obituary information when a funeral director reports it. Some newspapers only print paid obituaries. What newspapers need to be notified?

## Let Others Help

Friends and family members may ask what they can do to help you. If they ask, let them help! Here are some examples of the many little things, which are important but will be difficult for you to get done. You could ask someone to:

- Keep a list of food gifts brought to your home. The list should include what the food is, who brought it, and if the dish needs to be returned.
- Purchase an inexpensive guest book for you to have at home to keep a record of the people who visit.
- Make some of the notification telephone calls.
- Answer your phone and take messages. It may be helpful to keep a written record of telephone calls. A friend - or series of friends - may be able to do this.
- Answer the door when people come to visit.
- Have someone at the house when you must be gone. This person can answer the telephone and the door, take messages, and provide security by their presence.
- Prepare clothing. Clothing for the deceased or for you to wear to the services may need cleaning or to be purchased. A friend or family member could manage that for you.
- Cancel appointments or meetings for yourself, other family members, or the deceased. A friend or other family member can make telephone notifications of your need to cancel. This includes things like appointments for doctors, dentists, haircuts, etc.
- Begin a "To Do Later" list.
- Many things will come to mind that you will need to do after the services are completed. Jot them down the end of this book so you will remember them.
- Take care of yourself.
- Do what you need to do to take care of yourself right now during these difficult and demanding days. Make time for yourself in whatever way is most helpful for you. Let someone else answer the phone and the door and take messages. Turn off the ringer on your telephone. Make space for yourself whenever you need to.

# Resources Available in Suffolk County

There are many resources for survivors of homicide victims in Suffolk County. Your victim witness advocate will work with you to help best identify your individual needs. The following are some resources are for your reference.

## Services for Children and Adolescents

### **The Child Witness to Violence Project, Boston Medical Center**

**Address:** Boston Medical Center, 801 Albany Street, 1st Floor North, Boston, MA 02119

**Phone:** 617-414-4244

**Website:** [www.childwitnessstoviolence.org](http://www.childwitnessstoviolence.org)

The Child Witness to Violence Project (CWVP) is a counseling, advocacy, and outreach project that focuses on young children 8 years or younger who are the hidden victims of domestic and community violence, and other trauma-related events. The project began in 1992 and currently provides therapy to over 150 children and their families each year. CWVP is staffed by a multi-cultural staff of social workers, educational and clinical psychologists, early childhood specialists, and a consulting pediatrician. Their services include:

- Developmentally sensitive, trauma-focused therapy for the child and parent
- Parent guidance and family therapy as needed
- Advocacy/intervention to stabilize the environment of the child

### **The Good Grief Program, Boston Medical Center**

**Address:** 72 E Concord St #426, Boston, MA 02118

**Phone:** 617-414-4005

**Website:** [www.bmc.org/programs/good-grief-program](http://www.bmc.org/programs/good-grief-program)

The Good Grief Program provides training, consultation, and crisis intervention in the area of children's bereavement. Based on the premise that in the crisis of loss lies a unique opportunity for children to develop, strengthen, and master appropriate coping skills, their mission is to train adult professionals to:

- Know what children and adolescents need in order to face loss
- Create an infrastructure of necessary support during the crisis
- Assist children as they accomplish the psychological tasks of understanding, grieving, commemorating, and moving forward with their lives after a loss.





## Emergency Psychiatric Services

### The Boston Emergency Services Team (B.E.S.T.)

**Address:** 85 E Newton St, Boston, MA 02118

**Phone:** 1-800-981-HELP

Boston Emergency Services team (B.E.S.T.) provides a comprehensive, highly integrated system of crisis evaluation and treatment services to the greater Boston area, to children, adolescents, adults, including the elderly, the homeless, mentally ill and the multi-cultural populations within the Boston, Brookline, Chelsea, Revere, and Winthrop communities. If you or someone in your family is in crisis, please call 1-800-981-4357 for guidance. This toll-free number can be used 24 hours a day, seven days a week to obtain services. Staff at the 1-800-981-HELP Call Center will provide support, information, or referrals, or will arrange an in-person evaluation. The Call Center will dispatch mobile clinicians to intervene at the site of the crisis unless a different setting is requested by a family or if the containment of a more secure setting is require. NOTE: Please note that this is not a counseling hotline. This service is for callers in extreme psychiatric distress. This service is particularly helpful for suicidal, homicidal, or actively psychotic persons.

## Counseling and Community Services

### The Trauma Center at the Justice Resource Institute

**Address:** 1269 Beacon Street, Brookline, MA

**Phone:** 617-232-1303

**Website:** [www.traumacenter.org](http://www.traumacenter.org)

The Trauma Center's mission is to help trauma survivors re-establish a sense of safety and predictability in the world, and to provide them with state-of-the-art therapeutic care during the process of reconstructing their lives. Services are divided between the Child Program and the Adult program and include the following:

- **Child Program:** Individual therapy, family interventions, consultation and specialized evaluations, cognitive/behavioral treatment, psychopharmacology clinic, groups for parents and children, and forensic consultations.
- **Adult Program:** Individual therapy, family interventions, group psychotherapy, psychoeducation groups, psychopharmacology clinic, eye movement desensitization and reprocessing (EMDR), mind/body approaches, stabilization groups, and cognitive/behavioral treatments.

### Boston Trauma Response at Justice Resource Institute

**Address:** 555 Amory St., Jamaica Plain, MA 02130

**Phone:** 617-431-0124

**Website:** [www.jri.org/services/behavioral-health-and-trauma/boston-trauma](http://www.jri.org/services/behavioral-health-and-trauma/boston-trauma)

**Email:** [BTR@jri.org](mailto:BTR@jri.org)

The Boston Trauma Response Team provides rapid crisis response to homicides affecting young people (ages 13-24), short-term case management, coping groups, and follow-up psychological first aid services. The team consists of well-trained professionals and volunteers who are called on by community members, leaders, or emergency personnel to provide support to emotionally traumatized youth and their families on a 24-hour, 365-day-a-year basis. Staff and volunteers have the ability to respond to the emergency within 30 minutes of the time called to the Boston community.

### **The Community Violence Response Team (CVRT), Boston Medical Center**

**Address:** One Boston Medical Center Place, Boston, MA 02118

**Phone:** 617-414-8030

**Website:** [www.bmc.org](http://www.bmc.org)

Boston Medical Center has clinicians dedicated to providing individual and family counseling services to survivors of violence and family members who have been impacted by violence. In addition, they have case management and family advocacy services to provide additional support and assistance. All services are non-insurance based and are free to the clients and their families.

These services are offered to children and adults of all ages. Survivors of violence and their families will be offered support while inpatient at the hospital as well as follow up after discharge. Services include crisis intervention, psycho-education, ongoing counseling, therapeutic support, case management, advocacy, and referrals to community partners. Family survivors of homicide victims will be offered assistance with burial planning, ongoing support, and counseling.

### **The Violence Intervention Advocacy Program (VIAP), Boston Medical Center**

**Address:** Boston Medical Center, 850 Harrison Ave, Boston, MA 02118

**Phone:** 617-414-4926

**Website:** [www.bmc.org](http://www.bmc.org)

The Violence Intervention Advocacy Program (VIAP) assists victims of violence recovering from physical and emotional trauma by empowering them with skills, services, and opportunities. Empowerment enables victims to return to their communities, make positive changes in their lives, strengthen others who are affected by violence, and contribute to building safer and healthier communities. VIAP assigns you a Violence Intervention Advocate who can be with you during your journey to recovery, and provide the following services:

- Crisis intervention, support, and advocacy
- Ongoing case management and connections to community resources
- Family support services

### **The Victim Resource Center (VRC), Cambridge Health Alliance**

**Address:** Cambridge Health Alliance, 1493 Cambridge St. Cambridge, MA 02139

**Phone:** 617-665-2992

**Website:** [www.challiance.org/cha-services/victim-resource-center](http://www.challiance.org/cha-services/victim-resource-center)

The Victim Resource Center (VRC) provides free, confidential, clinically informed advocacy services to individuals affected by violent crimes including homicides.



Victim Services Specialists experienced in the areas of trauma, victimization, victim advocacy, and the criminal justice system work directly with victims to help them access community resources, medical services and the courts. Services include:

- Risk assessment
- Safety planning
- Needs assessment
- Information and referral
- Coordination with victim service agencies, law enforcement and legal services
- Resiliency and skills-based groups
- Crisis intervention

### **The Homicide Bereavement Program, Cambridge Health Alliance**

**Address:** 1493 Cambridge Street, Cambridge, MA 02139

**Phone:** 617-591-6123

**Website:** [www.challiance.org/services-programs/mental-health-and-substance-use/trauma-services/center-for-homicide-bereavement](http://www.challiance.org/services-programs/mental-health-and-substance-use/trauma-services/center-for-homicide-bereavement)

The Center for Homicide Bereavement offers safe haven and support to homicide survivors as they navigate their grief and look for ways to continue with their lives. Services are free of charge and include:

- crisis intervention and ongoing bereavement counseling for individuals and families;
- bereavement support groups;
- victim advocacy; and
- coordination with community resources including other services of the Victim of Violence Program of Cambridge Hospital.



## Survivor Outreach Services

These programs are survivor-oriented organizations that serve a variety of needs. Survivors of homicide formed all of these community-based groups. This is not an exhaustive list.

### **Louis D. Brown Peace Institute**

**Address:** 15 Christopher St. Dorchester, MA 02122

**Phone:** 617-825-1917

**Website:** [www.ldbpeaceinstitute.org](http://www.ldbpeaceinstitute.org)

**Email:** [info@ldbpeaceinstitute.org](mailto:info@ldbpeaceinstitute.org)

Louis D. Brown Peace Institute is a center of healing, teaching, and learning for families and communities impacted by murder, grief, trauma, and loss. The Peace Institute offers information, advocacy and support to survivors of homicide victims throughout the county. Services and events include:

- The Mother's Day Walk for Peace, an event that brings together families from across the state and region to walk together toward peace.
- Survivors Outreach Services (SOS) offers families emotional and practical support 24-72 hours after a homicide.
- The Rest in Peace fund provides financial assistance to survivors of homicide victims who are unable to pay upfront burial costs.
- The Survivors Leadership Academy is a workshop series for family members of murder victims to transform their pain and anger into power and action.
- The Survivors of Homicide Victims Awareness Month (November 20 to December 20) is a month-long effort to educate the public and policymakers about the impact of murder on families and communities and recognize the diverse contributions of the survivor's movement.

### **Mothers for Justice & Equality**

**Address:** 2201 Washington St, Roxbury, MA 02119

**Phone:** 617-516-8086

**Website:** [www.mothersforjusticeandequality.org](http://www.mothersforjusticeandequality.org)

**Email:** [info@mothersforjusticeandequality.org](mailto:info@mothersforjusticeandequality.org)

MJE was founded by mothers who had lost children to community violence. Their founders sought to share their voice and vision to the fight against violence. MJE provides the following programs:

- Community engagement and outreach
- Youth development
- Adult education and workforce readiness
- Financial education
- Health equity and community wellness

### **Garden of Peace: A Memorial to Victims of Homicide**

**Address:** One Ashburton Place, Suite 1101, Boston, MA 02108

**Phone:** 617-586-1369

**Website:** [www.mass.gov/orgs/garden-of-peace](http://www.mass.gov/orgs/garden-of-peace)

**Email:** [gardenofpeace@mass.gov](mailto:gardenofpeace@mass.gov)

The Garden of Peace is a memorial commemorating victims of homicide and an enduring reminder of the impact of violence. It's a visual testament to the need for eliminating violence. The Garden is a symbol of hope for peace and renewal in our lives, our community, and the world.



# Media Guidelines For Survivors



The media – newspapers, online news sites, and television and radio stations - often cover stories related to crime. Police departments and the District Attorney’s Office are obligated to grant media requests for certain information about crimes, arrests, and prosecutions. As a survivor of a homicide you may see reporters and cameras at the crime scene, at the arraignment, at important court hearings, or at the trial. A large media presence certainly can be intimidating, but you should remember that you - and only you - have control over whether you speak to the media and, if you do, under what circumstances you do so.

Dealing with the media can feel overwhelming, particularly when you are grieving. You may wish to share memories of your loved one while still maintaining your privacy. This Office will not advise you in favor or against speaking about your loved one to media. The decision to give an interview is yours and yours alone, but it is important to know that discussing details of the investigation or prosecution has the potential to compromise the criminal case. Please talk with your Victim Witness Advocate and the Assistant District Attorney assigned to your case to prevent any adverse effect on the outcome of pending criminal investigations and proceedings.

It is important to remember that if you do choose to speak with the media you can set limits and controls on how such an interview occurs including the following:

- You have an ABSOLUTE RIGHT to grieve in private.
- You can choose a spokesperson to speak on your behalf or release a written statement yourself or through your spokesperson.
- If you decide to speak directly with a member of the media, you have the right to speak only with reporters or news outlets of your choice. You are not required to give interviews to all media.
- You have the right to say “no” to an interview even if you have previously been interviewed.
- If you do choose to speak with select news outlets, other reporters may believe that you are open to additional interviews and contact you as a result. You have the right to decline these requests.
- You have the right to set acceptable conditions for you to be interviewed, and if these conditions cannot be met to withdraw from any scheduled interview. For example, you can say, “I want people to know about my loved one, but I do not want to describe the pain I am in.”
- You have the right to refuse to answer questions that you feel are inappropriate or that make you uncomfortable.
- If you feel the media has reported something about your loved one inaccurately, you have the right to call that journalist or their editor to discuss your concerns or to request a correction. Bear in mind, however, that the decision to publish a correction rests with the media outlet.
- You have a right not to be photographed if you choose to tell your story.
- You can ask to have graphic photos/visuals of your loved one or the crime scene not be broadcast or published. As in requesting a correction, the ultimate decision whether to publish or broadcast certain photos or images will be made by the media outlet.

## Media in Court

Reporters may be present in court for arraignment or other major court dates. The Massachusetts Trial Court permits members of media in the court room and allows them to use electronics during the proceedings. Court rules generally allow one television camera and one still camera to be used in the courtroom at a time. These are referred to as “pool cameras” and the footage and photographs are shared among media outlets. Media photographers are permitted to take photographs of individuals charged with crimes if they are visible in the courtroom, the judge, attorneys, and others present in the courtroom. If you have specific concerns about being photographed, please speak with your Victim Witness Advocate or the Assistant District Attorney assigned to your case to discuss options available to you. Reporters may approach you or others who attend the hearing to support your family to request interviews. Loved ones and supporters have the right to decline these requests.

Reporters will have access to records contained in police reports and other documents contained in the case file publicly available in the clerk’s office at the courthouse. The Assistant District Attorney may request that certain information be redacted from these records to protect the privacy of witnesses or others whose personal information appears in these documents. In addition to court files, reporters may also gather information and images from other available sources about your loved one, or the case. These sources may include social media, online memorials, and prior media reports.

The Suffolk County District Attorney’s Office’s Director of Communications and Press Secretary work in close contact with the Office’s trial teams and can provide guidance on interactions with members of media.



## Legal Proceedings

Every family sets its own pace of involvement in the Criminal Justice System. In our Program's experience over the past thirty years, there are some standard responses that families and loved ones have to the court process:

- Some families want to be present whenever their loved one's case is called.
- There are families that will be present every time the defendant is in court (whether or not the defendant is in custody).
- Other families draw back and call in only occasionally for status updates.
- Finally, there are families that have no interest in the prosecution and consider it incidental to their bereavement.

It is important to remember that there is no correct level of interest or involvement in your loved one's criminal case. You, as a family, must identify what level of contact is right for you. Different family members might have very different concepts concerning levels of contact with our office. It is often helpful for families to appoint a family spokesperson to assist in communicating information to family members. Regardless of what you decide, your victim witness advocate will assist you in every step of the criminal process.



**Pictured above:** Suffolk County Superior Court, at 3 Pemberton Square in Boston, Massachusetts.

## District Court

### Arraignment

A District Court arraignment is generally the first step within the Criminal Court process. At an arraignment, the defendant is formally charged with a crime and is appointed an attorney if they cannot afford one. It is important to know that the defendant in your case will answer “not guilty.” It is very hard to hear this phrase in court. All defendants answer not guilty at arraignment in Homicide cases - regardless of the strength of the case or number of witnesses. Not guilty is a legal position, not a moral statement. The Judge will then address the issue of bail and set the next court date.

It is possible that you and your family may know the defendant in your loved one’s case, or the defendant may be a complete stranger to you and your family. Regardless, preparing to see the defendant for the first time deserves careful thought. It is hard to predict what this will feel like. Your victim witness advocate will help you negotiate the arraignment process.

It is important to note: In any homicide case where the identification process of a defendant is an issue, it is likely that the defendant will either waive his presence at the district court arraignment or will in some way obstruct their appearance. This is very upsetting for families. Your victim witness advocate will prepare you in advance if this will be an issue in your loved one’s case.

The Assistant District Attorney assigned to your case will usually recite the facts of the case. The recitation may be very detailed and graphic in order to impress the judge with the gravity of the crime. Family members may want or need to leave the courtroom at this time. Your victim witness advocate and the assistant district attorney will discuss the facts with you prior to the hearing.

### Bail

Bail is set at the arraignment as a means to ensure that the defendant will appear at their next court date. In determining bail, the judge considers a defendant’s history of defaults, the seriousness of the crime alleged, and the risk of flight posed by a defendant. The assistant district attorney assigned to your case will address the nature of bail in your loved one’s case with you and your family before the arraignment. Once the District Court judge sets bail a defendant may seek a Bail Appeal that is heard by a Superior Court judge.

### Bail Notification

If the judge sets bail in your loved one’s case, your victim witness advocate will place you on Bail Notification. Bail Notification is a service provided by the Suffolk County District Attorney’s Office Victim Witness Assistance Program. The victim witness advocate assigned to Bail Notification will notify you if the defendant in your case is released on bail. This service is offered twenty-four hours a day, seven days a week. If the defendant in your case is released, the Records Department of the Holding Facility will page the victim witness advocate assigned to Bail Notification. The advocate will in turn contact you.





## Grand Jury Process

Before a case may be tried in Superior Court, a formal charge must be made at the Superior Court level. This charge is called an indictment and it is issued by the Grand Jury.

The Grand Jury of Suffolk County consists of 23 citizens chosen at random from the Jury Pool. The Grand Jurors sit for three months at a time and hear cases several days a week. When a witness testifies, the persons allowed in the room are the Grand Jurors, the assistant district attorney assigned to the case and others essential to the grand jury process. The assistant district attorney asks questions of the witnesses in your loved one's case, and if necessary, Grand Jurors may ask the witnesses questions. Neither the defendant nor their attorney is present at the Grand Jury. The Grand Jury process is a secret proceeding.

The Grand Jurors are asked to vote when testimony is completed. They vote on whether or not to indict the defendant and have the case proceed in the Superior Court. A quorum of 13 votes is necessary for an indictment. If they vote to indict, this is called a True Bill. If they vote not to indict, this is called a No Bill. The vote is secret until reported to a judge. This usually happens within a day or two of the Grand Jury's decision. If a defendant is indicted, they will be arraigned in Suffolk Superior Court on the charges issued by the Grand Jury. The charges in District or Municipal Court are then dismissed, as charges cannot remain pending on the same case in two different courts. As a result, you should not go to any District or Municipal Court dates without checking with your victim witness advocate to determine if anything will happen, or if the case has already moved to the Superior Court. In some cases the grand jury will bring an indictment on a case in which a defendant has not been arrested or arraigned in District or Municipal Court. This is called a direct indictment. A defendant charged as a result of a direct indictment will be arraigned in Suffolk Superior Court in the first instance and the case will proceed in Superior Court.

## Superior Court

### Arraignment

Most families want to be present for the Superior Court arraignment. Like the District or Municipal Court arraignment, Superior Court arraignments can be very emotionally charged. Your victim witness advocate will ensure that you are as prepared as possible for the following:

- The people who will be present. Your case will be heard by a Clerk Magistrate, not a judge.
- The physical set up of the courtroom. The Clerk Magistrate's Session where most arraignments are heard is very small and extremely crowded. Many cases are heard each day in this assignment session.
- Where the defendant will be during the arraignment process - where he/she enters from, where they are seated.
- If the defendant is out on bail, how to manage the common areas of the courthouse: cafeteria, entrance/exit, restrooms and elevators.
- The defendant's demeanor may be upsetting. Rarely will there be a show of remorse. The defendant in your case may or may not make eye contact with you and your family.
- The defendant's family may attend the arraignment. We have a private separate area where you and your family can wait for the proceedings to start.

### Process of Arraignment

The defendant is brought into the courtroom by the court officers. They use a side door not accessed by the public. When the case is called, the defendant in your loved one's case will stand, joined by their defense attorney for the reading of the indictment(s).

The Clerk Magistrate will read the indictment. Your loved one's name will be included. The language of the indictment is archaic. No matter what the cause of death or weapons used, the language describing the death will be "did assault and beat." As in the District or Municipal Court arraignment, the defendant will answer not guilty.

Your victim witness advocate will discuss with you before the arraignment how you and your family are feeling and how you will manage seeing the defendant in your loved one's case. You can leave the courtroom at any time - no court process should feel like a test of how much you can endure as a family. You will have many opportunities to view the defendant over the course of the court process. Court officers are present to make sure that people are safe even though they may feel very shaky.

### Pre-Trial Conference

A Pre-Trial Conference is a signed agreement presented to the court by the assistant district attorney and defense counsel. This begins the process of discovery: the pre-trial disclosure of facts and evidence to be introduced at trial. Defendants are not usually brought in for a pre-trial conference.

### Motions

Evidentiary pre-trial motions can be a good opportunity for you and your family to practice being in a courtroom with a defendant present, but without the additional pressure of a jury. The overwhelming majority of these motions are filed in the ordinary course of any case before the court. These legal arguments may include:

- **Motion to Dismiss:** A pleading filed by the defendant asking the court to dismiss all or part of the complaints for a specific reason or reasons.
- **Motion to Suppress:** A mechanism used to eliminate from the trial of a criminal case evidence that allegedly has been secured unconstitutionally.
- **Motion to Continue:** If either the assistant district attorney or the defense attorney needs additional time to prepare their case they will file a Motion to Continue. There are numerous reasons why such a motion would be filed that are particular to your loved one's case.
- **McCarthy Motion:** Motion to dismiss based upon insufficient evidence presented in the Grand Jury.

### Coming to Court for Motions:

The Suffolk County District Attorney's Office encourages you to come to any court date that you wish to attend. The following issues should be discussed with your victim witness advocate prior to attending any pre-trial dates:

- Call ahead to confirm the date, in case there has been a change in court schedule.
- The defendant may or may not be present; your victim witness advocate will confirm this for you.
- The case may be called at any time during the business day and may only take a few minutes to resolve.

**It is Important to Note:** Coming into court, for any proceeding, can be very upsetting. You may experience symptoms of trauma. Please remember that your victim witness advocate can keep you updated by telephone if this would be preferable for you and your family during the pretrial process. There may also be times when you may be able to attend via video conference.



# Resolution of the Court Process

## Court Orientation

Once your loved one's case is scheduled for trial, your victim witness advocate will schedule time for you and your family to begin to prepare for the court process. Together you will:

- Visit an empty courtroom to be aware of distances between family and defendant and where you will testify (if you testify as a family member for your loved one).
- Where the defendant will exit and enter from during trial.
- Discuss courtroom etiquette and attire.
- Map out restrooms and waiting areas on the floor where the case will be heard.
- Review sequence of Trial (from pre-trial motions to verdict and impact statements).
- Discuss employment needs (letters, phone calls etc.) of family and friends that will attend the trial.

## Pre-Trial Motions

These motions tend to be 'housekeeping' matters: issues that need to be brought to the attention of the assigned trial judge before the trial begins. Some examples include:

- Jury Empanelment and Voir Dire - deciding upon the questions to be asked of prospective jurors.
- Sequestration of Witnesses.
- Suppression or Admittance of evidence to be presented at trial (could be called a Motion in Limine).

Attending these motions are very helpful to families, although not required due to their frequency; it provides a chance to once again practice being in the courtroom with the defendant and gives some insight into the temperament of the assigned trial judge. In addition, families have first-hand information about decisions that can directly impact their loved one's case.

## As The Trial Begins

Once your loved one's trial begins, your victim witness advocate will encourage you to be careful of discussing the trial in the courthouse. Do not discuss the case in restrooms, elevators, common hallways or the public cafeteria. You never know if a witness or juror might overhear your discussion; or if you are standing next to a family of the defendant. You will recognize the jurors on your trial very quickly. Do not get on elevators or public transportation with the jurors who are sitting on the trial. Even the appearance of contact must be avoided to prevent any issue for that the defense attorney could raise to the judge.

## Reassertion of Trauma

It is important to be patient with yourself. Trauma symptoms can reassert themselves at any point during the trial. Your victim witness advocate will assist you in managing the agitation and physical symptoms that anticipating the trial will likely bring up for you and your family.

Remember that the courtrooms are public. You can leave when things get difficult, and you need a break. This also means that friends and family can attend as well to assist and support you. If you choose to enlist the support of friends, it is helpful to think of the following:

- Consider having friends take turns attending the trial so you can have their support and company throughout the court proceedings.
- Have whoever wishes to attend contact your victim witness advocate who can explain courtroom etiquette, logistics and transportation and prepare them for the experience of attending court.
- Do not bring anyone who is not prepared for what supporting you in court will entail. You should not feel as if you have to take care of anyone emotionally during this time.

**A trial is never a test of what you can endure or proof of how much you love the person you lost to violence.**

Sitting through court proceedings can at times be traumatizing, confusing, and infuriating. It is important to remember, however, that while the jury will see the defendant throughout the trial, they see your loved one only through you. **Your dignity and reserve can only help a jury to conceive of who your loved one was in life.**

### **Jury Selection**

In Suffolk County the jury selection in your loved one's trial will be open to the public and the doors of the courtroom will likely be unlocked.

Several jury panels of approximately twenty people will be brought up from the general jury pool and will be seated in the courtroom. The judge assigned to your case will introduce themselves and explain the charges against the defendant.

The judge will decide how many jurors are chosen. Generally, in Suffolk County, this will mean either fourteen or sixteen jurors will be chosen. Twelve of these jurors will be designated to deliberate after all the evidence is presented and the judge instructs the jury on the law. The remaining two to four jurors will be designated as alternates who will not deliberate unless a deliberating juror needs to be replaced.

The assistant district attorney and defense attorney(s) each have a number of peremptory challenges that allow the lawyers to strike a juror from the prospective jury.

In Suffolk County the jurors can be asked series of questions to determine their appropriateness to serve on a jury either individually or as an entire panel. This is called individual or group voir dire. Frequently judges will ask questions first of the group as a whole and, later in the process, of individual prospective jurors.

### **How Long Jury Selection Will Take**

Every case is different. Jury selection can take several hours or up to several days in Suffolk County.

### **Sequestration of Witnesses**

When this motion is allowed, all witnesses for the Commonwealth and Defense must remain outside the courtroom until they are called into the courtroom to testify. This is a standard motion filed in every homicide trial in Suffolk County.



Your assistant district attorney will try to accommodate your need to be present for all proceedings as much as possible, either by asking that you be exempt from sequestration if you are to testify as a parent or spouse or by calling you as the first witness. However, it is the trial judge that ultimately decides issues of sequestration.

If a family member is an eyewitness to the events of your loved one's death, they will unfortunately need to be sequestered until their testimony is completed. Family members who are not eyewitnesses that testify about a victim's life may be allowed to remain in the courtroom post testimony with other family members that did not testify.

It is important to note: You must not violate the sequestration order by discussing the facts of the case with family members or witnesses that are sequestered. This can be reason for a mistrial. Your victim witness advocate and assigned assistant district attorney will answer any of their questions once they have testified. Sequestered witnesses are allowed to listen to closing arguments after the evidence portion of the trial concludes.

## **View**

Many homicide trials in Suffolk County may begin with or at some point have what is known as a view. The prosecuting assistant district attorney, defense counsel, presiding judge, and clerk magistrate accompany the jury on a bus out to the location of the crime. The assistant district attorney and homicide detectives arrange the view and the bus travels with the court officers assigned to the court session and a police escort.

Before the view begins, each attorney is allowed to offer a brief view opening, asking the jury to pay specific attention to certain elements of the crime scene that they believe to be important to their case.

The family of the victim and witnesses are not allowed to attend the view. The defendant in your loved one's case can opt to attend the view. This is likely if the defendant is not in custody.

## **Opening Statements / "Openings"**

Opening arguments are each attorney's "road map" of the evidence they expect to present during the trial. These statements are not evidence and the judge instructs the jury of this before the lawyers begin.

The assistant district attorney speaks first. The defense attorney can immediately follow the assistant district attorney or wait until after the prosecutor presents all the evidence and 'rests' their case. The most common practice in Suffolk County is for the defense attorney to offer an opening statement immediately following the prosecutor. Some judges will set a time limit on how long an opening statement can proceed; others do not.

## **Your Testimony**

Often, a parent, spouse, or sibling of a homicide victim will testify during the trial. This testimony is brief and will, if the judge permits, include introducing a photo of your loved one as they appeared in life. This will be a photo that you and the assistant district attorney agreed on and is usually framed.

Although this testimony can feel overwhelming and painful to anticipate, your assistant district attorney and victim witness advocate will thoroughly prepare you for this experience. The feedback we have received from family members who have testified in this way has been overwhelmingly positive. It gave them a chance to represent their loved one with dignity and respect, putting a human face on the tragedy they suffered as a family due to the murder.

Your victim witness advocate has prepared many people for the difficulties of testimony. Remember it is normal to feel frightened and/or apprehensive. You may also feel a resurgence of trauma symptoms. Be open with your victim witness advocate and assistant district attorney about your fears and concerns: they each have significant experience preparing people for this type of testimony and can reassure you that your response is both normal and manageable.

### **Other Difficult Testimony**

Certain testimony is extremely difficult for families during the course of the trial. The victim witness advocate and assistant district attorney will discuss this testimony with you and your family beforehand. This testimony can include:

#### *Emergency Medical Technician/Paramedic*

In most homicide cases, one of the emergency medical technicians or paramedics who tended to the victim will testify about the medical assistance they provided at the scene and en route to the hospital. Their testimony may include their observations of physical injuries, and the medical assistance given. On occasion, they may testify as to the last words of a victim. Your victim witness advocate will prepare you for this testimony in advance so you can decide how you would like to take care of yourself during this testimony.

#### *Forensic Evidence from the Crime Lab*

This may include your loved one's clothing. It may be bloody, and it may have bullet holes or knife entrances. The items may have great personal resonance for you if you gave them as a gift or if you closely associate them with your loved one.

#### *Demonstration and Display of Weapons or Bullets*

The weapon may be introduced as evidence through the testimony of the lead detective or the ballistics expert. Bullets may also be introduced by the medical examiner when they are found during the autopsy. Seeing the murder weapon responsible for taking your loved one from you is indescribably painful. Your victim witness advocate will inform you when this evidence will be introduced so you can prepare yourself emotionally.

#### *Medical Examiner*

The medical examiner that performed the autopsy will testify to the cause of death. This testimony is very cold and graphic and details all injuries and cause of death. Many families choose to listen to this testimony in hope that they will learn if their loved one suffered. The medical examiner cannot answer this: the testimony involves only the cause of death. There are ways to cope with a medical examiner's testimony. You can choose to leave the courtroom during the testimony. Your advocate can arrange a meeting with your assigned assistant district attorney to talk about the testimony in advance in a private setting.

If you do choose to remain for this difficult testimony, then remember:

- Pictures may be introduced or held in such a way that you and your family might see them.

**It is important to remember that you should never feel you must be present for testimony if it feels uncomfortable or upsetting. It is okay to change your mind. If you choose to remain in the courtroom and then seeing and/or hearing testimony becomes too difficult, you may leave the courtroom and return when another witness is on the stand.**



## Sidebar Conferences

A sidebar conference allows the judge, prosecutor and defense attorney to discuss matters of law out of the hearing of the jury. Their comments are recorded for the record and are not secret. Sometimes in a trial you may see the lawyers break from the sidebar smiling or making casual remarks. This is not intended to be disrespectful. The trial and prosecution is a very serious proceeding, and the interaction may have been to break the tension. You may also notice the clerk may put on a static noise or white noise to prevent the jury from hearing their comments.

## Closing Arguments / "Closings"

Once all the evidence is presented by the assistant district attorney and defense counsel, the closing arguments are heard. As in opening statements, the closing arguments are not evidence. They are the summations of each lawyer's view of the case and represent the last time that they address the jury.

The defense attorney proceeds first, followed by the assistant district attorney who bears the burden of proof in the case. Just as with opening statements, a judge can determine whether they will set a time limit on how long a closing argument can proceed. Closing arguments can be upsetting to listen to. Evidence and photos will be mentioned again. You may choose to step out at any time.

## Jury Charge / "Instructions"

After a conference with both the assistant district attorney and the defense counsel concerning the case law, the judge will proceed to instruct the jurors on the laws that apply to the case. Once the jury charge begins, you cannot enter or leave the courtroom; the court officers lock the doors to prevent any interruption or distraction.

Although it can be a long proceeding, we strongly encourage you and your family to remain for the jury charge. Instructions take at least an hour and can run closer to two hours depending upon the judge and what needs to be explained to the jury. Jury instructions are designed to give the jury the elements of the law they need to determine guilt or innocence. The judge's instructions will include the case law governing each specific crime that the defendant is charged with committing, expert testimony, identification, reasonable doubt, intent, eyewitness testimony and circumstantial evidence.

Once the instructions are completed, the clerk magistrate randomly picks the alternates and the foreperson of the jury by number. The court officers are sworn and then they take the jury to deliberate. Any item marked and identified as evidence is sent to the jury deliberation room.

Jury deliberation is very hard on families. You must remain nearby because the verdict will not be held for you to return to the courthouse. Verdicts are not held for more than a few minutes for all parties to assemble. This means that families often wait with their victim witness advocate, assistant district attorney, and the detectives assigned to their case in a courthouse that is uncomfortable and provides few amenities. Because waiting is so stressful, jury deliberations can be a good time for friends and family to support you.

If you have a cell phone, your victim witness advocate may encourage you to get some air or take a brief walk to help break the tension.

Generally, deliberation follows a daily schedule of 9:00 - 4:00 p.m. or 9:30 - 4:30 p.m. The jury decides how long they deliberate in each case and can inform the judge that they wish to stay later than the normal court day. There are also very rare occasions where a jury may also deliberate on a Saturday. If this is the case, your victim witness advocate will inform you as soon as these decisions are made.

Our advocacy staff hears from many families about how difficult it is simply to wait with nothing to do except hope their loved one's case is being deliberated with seriousness and respect. During deliberations it can help to go over the plan you have created with your victim witness advocate to handle any possible verdict or review your victim impact statement. Families sometimes share stories about their loved one to pass the time in a way that feels connected to that person. Whatever your choice, your victim witness advocate will do their best to help you manage the difficulty of waiting for a verdict.

## Questions

If the jury has a question, then they will contact the judge in writing. The note is written by the foreperson and delivered to the judge by the court officer. The judge calls both lawyers to sidebar, and then decides how to answer the question. The question may require a simple yes or no answer or re-instruction on elements of the jury charge.

Your victim witness advocate will bring you into the courtroom for the question. If re-instruction is necessary, then you are allowed to remain.

You may find yourself on an emotional rollercoaster trying to interpret what any question might mean. It is important to remember that it is impossible to know what these questions will mean in connection to the jury's final verdict .

## The Verdict

The verdict in your loved one's case must be unanimous. Both the prosecutor and the defense attorney usually remain in the courthouse awaiting the verdict or provide the clerk magistrate assigned to the courtroom with a cell phone number or pager so they can be reached quickly. The judge will not hold a verdict longer than approximately ten minutes for all parties to assemble, including the lawyers assigned to the case.

You must remain in the courthouse. If you do leave, then you must be within five minutes of the courthouse and available by cell phone. Otherwise, you may run the risk of missing the verdict in your loved one's case.

The jury may find the defendant(s):

- Guilty of all charges
- Guilty of some of the charges and Not Guilty of others
- Guilty of lesser included offenses or
- Not Guilty of all charges

It is also possible that the defendant could be found not guilty by reason of insanity (a rare occurrence) or that the jury may not be able to come to a decision (see definitions of "mistrial" and "hung jury" below).

Verdicts are very tense. You will stand as the judge and jury reenter the courtroom. The Clerk Magistrate will then ask that the jury and the defendant remain standing for the reading of the verdict. The jury's finding is written on the verdict slip, which is signed by the foreperson of the jury. The judge reviews the verdict and hands the slip to the clerk. The clerk will, for each charge, read the charge out loud and ask the jury what their verdict is. The language is archaic and old-fashioned.

The jury's responsibility is to decide guilt or innocence based on the evidence presented at trial. Once the jury has rendered its verdict, the judge thanks them for their service. They are sent back to the deliberation room and released.





At some point after a verdict is reached, the judge will impose a sentence (or multiple sentences in the case of multiple convictions) on the defendant. As described more fully below, the timing of the imposition of sentences depends on the verdicts returned by the jury.

## Potential Verdicts in Your Loved One's Case

### First Degree Murder

First degree murder is murder committed:

- With extreme atrocity and cruelty
- With deliberate premeditation or
- During the commission of a life felony where the defendant acted with malice

*Sentence:* An adult defendant convicted of first-degree murder will receive a mandatory sentence of life in prison without the possibility of parole. A defendant who was under the age of eighteen at the time of the murder will receive a mandatory sentence of life in prison with the possibility of parole after a term set by the judge.

All first-degree murder cases are automatically appealed to the Supreme Judicial Court (SJC), the highest court in the state. This automatic appeal concerns matters of law only: the court will not retry the facts of your loved one's case. Your family should be prepared for the reality that the SJC's review of a case can take years and is often delayed by post-conviction litigation. A victim witness advocate will be in touch with you to keep you apprised of court dates and other developments in the appeals process as it unfolds after trial.

### Second Degree Murder

Second degree murder is murder committed with malice, but without the other aggravating elements of first-degree murder.

*Sentence:* Life in prison with the possibility of parole set by the judge between.

A Second-Degree Murder conviction can be appealed to the Massachusetts Appeals Court, which decides issues of law in your loved one's case. They do not retry the facts of the case.

### Manslaughter

Manslaughter is the unlawful taking of a human life without premeditation or malice. It can be "voluntary" or "involuntary" depending upon the circumstances.

*Sentence:* Sentences for manslaughter convictions depend on the facts and circumstances of the case. A defendant convicted of manslaughter can be sentenced to up to twenty years in state prison, or shorter terms of incarceration (not to exceed two- and one-half years) in a jail or house of correction or probation.

A manslaughter conviction is also appealed to the Appeals Court.

## **Mistrial**

A mistrial is declared when the judge ends a trial without a verdict. This may be because of a prejudicial error that cannot be corrected by judicial instruction, the occurrence of an unusual event (death or family emergency of defense counsel, assistant district attorney, or juror) that prevents the trial from proceeding, or because the jury cannot agree on a verdict.

## **Hung Jury / “Deadlocked” Jury**

A jury that cannot agree upon any verdict and are irreconcilably divided in opinion is a “hung jury.” In such a case, the judge may declare a mistrial and the defendant(s) may be tried again before another jury. The judge may also determine whether to request continued deliberation or read them the case law that is designed to assist a jury in resolving their differences. This is known as the “Tuey-Rodriguez Charge.”

## **“The Tuey-Rodriguez Charge”**

The Tuey-Rodriguez Charge states to the jurors that they have the duty to decide the case if conscientiously possible, and that they should pay proper respect to each other’s opinions and listen with a disposition toward being convinced by each other’s arguments. The Supreme Judicial Court of our state has approved the use of this charge only when the judge in your loved one’s case has reason to believe the jury has deadlocked.

We include the standard text of Tuey-Rodriguez below to assist you if the judge determines its necessity in your case:

The principal mode provided by our constitution and laws for deciding questions of fact in criminal cases is by the verdict of a jury. In a large proportion of cases - perhaps, strictly speaking, in all cases- absolute certainty cannot be attained nor is it expected.

A juror’s verdict must be his own - the result of his own convictions, and not a mere acquiescence in the conclusion of his fellows. Yet, in order to bring twelve minds to a unanimous result, you must examine the questions submitted to you with candor and with a proper regard and deference to the opinions of each other. You should consider that it is desirable that the case be decided, and that you are selected in the same manner, and from the same source, from which any future jury must be. There is no reason to suppose that the case will ever be submitted to twelve persons more intelligent, more impartial or more competent to decide it. Or that more or clearer evidence will be produced on the one side or the other. And with this view, it is your duty to decide the case, if you can conscientiously do so.

In order to make a decision more practicable, the law imposes the burden of proof on one party or the other in all cases. In the present case, the burden of proof is on the Commonwealth to establish every part of the case; the defendant is entitled to the benefit of the doubt and must be acquitted. However, in conferring together you ought to pay proper respect to each other’s opinions and listen with a disposition to be convinced to each other’s arguments.

Thus, where there is disagreement, jurors for the acquittal should consider whether a doubt in their own minds is a reasonable one if it makes no impression on the minds of others who are equally honest, equally intelligent, and who have heard the same evidence, with the same attention, with an equal desire to arrive at the truth, and under the sanction of the same oath as themselves. On the other hand, jurors for conviction ought seriously to ask themselves whether they may not reasonably doubt the correctness of a judgment that is not concurred in by others with whom they are associated and distrust the weight or sufficiency of evidence that fails to carry conviction to the minds of their fellows.



## **Not Guilty By Reason of Insanity**

This is an unusual occurrence. Your assigned assistant district attorney will speak with you and your family about this possibility in detail from a very early period in the criminal justice process if this is a potential outcome.

## **Sentencing**

For a first- or second-degree murder verdict, the judge in your loved one's case has little discretion regarding the sentence imposed, it is mandated by law. If time permits, the sentence may be imposed after the verdict. Usually, however, a separate sentencing hearing will be scheduled for a later date. This will allow the judge to order a pre-sentence investigation – an investigation into the background of a convicted offender by the Superior Court Probation Department, which forms the basis of a report prepared to help the judge determine an appropriate sentence. In all sentencing hearings you have the right to give a victim impact statement. Even if the sentence will not be imposed until a later date, the defendant generally will be held in custody after a guilty verdict in a homicide trial.

## **Change of Plea**

Some homicide cases are resolved by a change of plea. In these cases, a defendant will admit to the facts of the crime and be sentenced by a judge. There are many reasons why such a plea may be accepted by the Suffolk County District Attorney's Office and every case is different. Reasons can include eyewitnesses not being available or evidence being suppressed by a judge in a motion hearing and therefore unusable at trial.

If the defendant makes a change of plea, then your assigned assistant district attorney and victim witness advocate will talk with you and your family extensively about the individual facts of your case and about why such a decision is being made. Your input, as a family, is crucial to us and will be considered and weighed before any final determination by our office. The ultimate decision however, to accept a plea or not lies solely with the elected District Attorney. DA Rollins will meet with any family to explain her decision.

### **Please note:**

- The Victims' Bill of Rights ensures that you and your family will confer with the assistant district attorney assigned to your case before any change of plea is accepted.
- You and your family have the right to make your thoughts and concerns known.
- You have the right to present a Victim Impact Statement during sentencing.

## **Post Sentencing "Let-Down"**

Sadly, there is no verdict, no matter how favorable, that gives any family their heart's desire and returns their loved one to them. Homicide trials are the ultimate "no-win" situation. No outcome will bring back the victim or make your family feel whole or restored. We find that many families feel very depressed and let down after a verdict, whatever the outcome, and are very surprised by their feelings.

Your victim witness advocate will help you and your family prepare for your post-verdict emotions. It is normal that you may feel very shaky for several days (or longer) as you deal with the reality of the verdict and think about all that you heard during the trial.

## **The Appellate Process/Motion for a New Trial**

The court process is never truly over for survivors of homicide victims. After the defendant is convicted the process of reviewing the legal elements of the trial begins. This process can continue for years and is very frustrating for families and friends of victims. The feedback that families have provided to our advocates over the years regarding this process is they are never truly able to put the case behind them. The criminal process is never truly over, and the fear of a re-trial of their case and the lengthy appellate process can cause families a great deal of emotional and physical stress.

Your victim witness advocate will work with you throughout the appeals process to answer your questions, serve as a liaison with the assistant district attorney assigned to your case, and accompany you and your family to any of the hearings or arguments you wish to attend.

### **Motion for a New Trial**

A motion for a new trial will usually be heard by the trial judge in your loved one's case, unless that judge is no longer serving as a judge (e.g., due to retirement). If the judge who presided over the trial is no longer available, a new judge will be assigned to hear the motion. The motion will be assigned to an assistant district attorney in the Appeals Unit of our office. A victim witness advocate will be sure you are introduced to the assistant district attorney handling the post-conviction motion, and that you have the opportunity to address any questions or concerns with that attorney. A motion for a new trial can be filed soon after a conviction or years later. Your victim witness advocate and assistant district attorney will review with you the legal reason for this motion being filed by the defense before the hearing. You will be told the position the office is going to take regarding the motion for a new trial.

### **What to Expect When You Attend a Hearing on a Motion for a New Trial**

Hearings for new trial motions can involve a two-step process. The first hearing will be a "non-evidentiary" hearing at which the judge will review the legal arguments raised by the parties, but will not take evidence (i.e., hear testimony from witnesses). The judge can deny the defendant's motion after this hearing or can order an evidentiary hearing if the judge determines that further facts are necessary in order to resolve the legal issues raised by the defendant. If an evidentiary hearing is held, the judge will take evidence (i.e., will hear testimony from witnesses, and/or review exhibits submitted by the parties). You should be aware that a defendant has the constitutional right to be present for both the non-evidentiary hearing and the evidentiary hearing, and that these hearings are also open to the public.

Usually, the motion judge will not issue a decision on the day the motion is heard. Instead, the judge will take the decision "under advisement" and will issue written findings of fact and ruling of law at a later date. The more complex the issues involved, the longer it will likely take for the judge to issue findings.

During this time, the appellate process is stayed until the decision is rendered.

### **The Appellate Process**

First Degree murder convictions result in an automatic appeal to the Supreme Judicial Court (SJC) of Massachusetts. The Massachusetts Appeals Court hears appeals from convictions for second degree murder and manslaughter. Neither of these convictions results in an automatic appeal however, defendants almost always file an appeal of these convictions.

A defendant has thirty days to in which to file in the trial court a notice of their intent to appeal the conviction. The court can allow an additional time to file, but the request must be made within a year of the conviction.



The Appeals Unit of the Suffolk County District Attorney's Office is responsible for writing the legal arguments ("brief") for your loved one's case. This is a time-consuming process. All the records from your loved one's case must be assembled, and the court stenographer must provide a written transcript of the trial to both our office's Appeals Unit and the defense attorney. These transcripts can take many months to complete, particularly if the trial was lengthy.

Once the defense's brief is received, the Chief of our Appeals Unit will assign an assistant district attorney to your loved one's case. Your assigned assistant district attorney will review the defendant's brief, the legal issues it raises, and the transcript of the trial.

The assistant district attorney has thirty days to respond to the defendant's brief. However, this does not mean that the brief will be completed in this time frame. It is likely that our office will petition either the Appeals Court or the SJC for additional time to properly prepare the brief.

Once the brief is completed and filed, the court will schedule a hearing called an "oral argument." At this point your victim witness advocate will make arrangements for you to meet with the assigned assistant district attorney to discuss what to expect when you attend the oral argument. We can also provide you with a copy of the brief. You, as well as any other member of the public, are invited to attend the oral argument. You do not need to do so, however, if you feel it will be too difficult or emotional. If you decide that you do not wish to attend, the victim witness advocate assigned to your case will contact you after the argument with any updates.

## **What to Expect When You Attend the Oral Argument**

The Appeals Court is located on the 10th floor of the Pemberton Square Courthouse; the Supreme Judicial Court is in the same building on the 13th floor. Both courts are extremely formal, more so than any of the courts you attended leading up to or during your loved one's trial. When your case is called, both lawyers are allowed to address the court.

### **In the Appeals Court**

The lawyers will argue the pertinent points of their case before a panel of three appellate judges. They each have fifteen minutes to make their legal arguments.

### **In the Supreme Judicial Court**

For first-degree murder appeals the lawyers will make their arguments before anywhere from four to seven judges. Typically, five judges are on the panel. Each lawyer is allowed twenty minutes to argue but can go over this time limit if permitted by the judges.

It is important to note that the Supreme Judicial Court has the ability to review any issue of law, even if it is not raised by the defense attorney, as well as those that are included in the defendant's brief.

Whether in the Appeals Court or the Supreme Judicial Court, you will notice that the judges will ask many questions of each lawyer. You cannot determine the potential outcome of the appeal by the panel's questioning of either lawyer. In both the Appeals Court and the Supreme Judicial Court, the judicial panel will spar with both attorneys on matters of law in order to test their level of preparation, the theory of their legal argument, or even play devil's advocate on certain issues.

In appellate practice no witnesses are called, no testimony is taken, and you and your family are not allowed to address the court. If the defendant is in custody, then they will not be present. If the defendant is not in custody then he/she may be in the audience but will not be allowed to address the court unless they are proceeding as their own attorney (also known as "pro se").

### How Long Does It Take for the Courts to Make a Decision?

The time between oral argument and a decision from either appellate court can be lengthy. It can take several months – or as long as a year – for the court to issue a decision. The appellate lawyer assigned to your case will receive notice of the court’s decision the same day it is issued. Your victim witness advocate will contact you promptly after the decision is issued.



**Pictured above:** The John Adams Courthouse, at 1 Pemberton Square in Boston, Massachusetts, is home to the Massachusetts Supreme Judicial Court and the Massachusetts Appeals Court.



# After the Trial

## Property Return

Clothes and other personal belongings are often a very powerful connection to someone lost to violence. Retrieving these items is always important to families. Because of potential appeals, connections to other cases, or other unforeseeable events, however, this is not always possible, and police agencies must retain custody of your loved one's belongings indefinitely.

These general guidelines apply in Suffolk County:

### **Unsolved Cases**

If the case is unsolved then Boston Police Department or the State Police keep the evidence forever.

### **Cases that Result in Conviction**

If a defendant is arrested and convicted after trial, the evidence is kept by the Superior Court Clerk's Office until all appeals -- state and federal -- are exhausted. However, the Commonwealth is required to secure such evidence until the defendant has completed their sentence.

### **If a Defendant Pleads Guilty**

If a defendant is arrested and pleads guilty, the evidence is kept by the Boston Police Department or the State Police indefinitely.

### **If a Defendant is Found Not Guilty**

If a defendant is found not guilty, the evidence may be returned or retained indefinitely at the discretion of Boston Police Department or State Police.

## Post-Conviction Notification

### **CORI and the Department of Criminal Justice Information Services**

**Address:** 200 Arlington Street, Suite 2200 Chelsea, MA 02150

**Phone:** 617-660-4600

**Website:** [www.mass.gov/information-for-victims](http://www.mass.gov/information-for-victims)

**Registration:** You may download applications for certification directly from the website, or your victim witness advocate can give you an application directly. Applications can be submitted online, by fax, or mail.

The Department of Criminal Justice Information Services (DCJIS) provides victims with access to an offender's criminal record. If you are a victim or have been affected by a crime, you can register to receive notifications about an offender. You can also register to receive access to their criminal record. Your registration is confidential, and the offender will not be notified.

## CORI

CORI stands for Criminal Offender Record Information. In Massachusetts, access to CORI is restricted by state law. However, victims and survivors of crime may become certified to get access to CORI through two types of certifications.

The first is called "Access to CORI Documents." This first certification can allow victims and survivors, as defined by the Victim's Bill of Rights Law to become certified to get access to documents pertaining to CORI.

The second type of certification is for "Notification of an Offender's Release from Prison." If the offender is serving a term of incarceration, victims, and survivors of crime as well as other "citizens in fear" may apply for notification. Upon certification, DCJIS informs the appropriate correctional authority and the Parole Board that the individual is entitled to advance notice of the inmate's temporary, provisional or final release from custody. All information pertaining to a certification for notification and access to CORI documents is confidential.

You can receive notification about an offender if you are:

- A victim of the offender's crime
- A witness to the crime
- A family member of a victim who is deceased, incompetent, or a minor
- The parent or guardian of a victim or witness who is a minor or incompetent
- Concerned for your safety

Once you register, you will be notified if the offender:

- Is moved to a less secure facility
- Escapes from their facility
- Is released (including temporary, provisional, or final release)

## Parole

### **The Massachusetts Parole Board**

**Address:** Parole Central Office, 12 Mercer Road, Natick, MA 01760

**Phone:** 508-650-4225

The Massachusetts Parole Board is responsible for successfully reintegrating suitable offenders into the community through supervised, conditional release. The Parole Board makes impartial, balanced release decisions and clemency recommendations.





Release decisions allow selected incarcerated offenders to serve a portion of their sentence in the community under strict supervision, subject to specific rules and regulations.

The Parole Board may modify conditions of release or, with just cause, return a parolee to custody.

The Parole Board's Victim Services Unit provides information, referrals and support services to crime victims and their family members. The Victim Services Unit also solicits victim input so that parole decisions are made in as informed a manner as possible and provides assistance and support to crime victims during parole hearings. The Parole Board also provides victims access to specified parole hearings.

### **What is Parole?**

Parole is when an offender serves the remainder of their sentence in the community with supervision and specified conditions. Parole is a conditional release and may result in a return to custody if a violation of a parole condition occurs.

### **Who May Attend a Parole Hearing?**

In cases that resulted in a death, **and** the offender received a sentence of 60 days or longer, family members of the deceased victim and surviving victims may attend the parole hearing.

- A CORI-certified victim and CORI-certified parent guardian of a minor aged victim may attend a parole hearing where the crime is violent, as defined by M.G.L. c. 127 § 133E, and the committed sentence is one year or more.
- A CORI-certified victim and CORI-certified parent guardian of a minor aged victim may attend a parole hearing where the crime is a sex offense, as defined by M.G.L. c. 127 § 133E and the sentence is 60 days or longer.
- **Hearings for second-degree life sentences, commutations, and pardons are all open to the public.**

### **How Can Victims Participate in the Parole Release Process?**

- Submit written victim impact statements, videotaped statements, and photographs.
- Attend and participate in the parole hearing process if eligible.
- Attend the parole hearing as an observer.

### **The Victim Services Unit (VSU) with the Massachusetts Parole Board (MPB) assists crime victims in the following capacities:**

- Provides notification to CORI-certified crime victims of upcoming parole hearings and the result of that hearing
- Schedules and accompanies victims to parole hearings
- Assists crime victims in obtaining CORI-certification which enables the individual to receive information regarding an offender
- Provides crisis intervention, and safety planning, and connects victims to support resources in their communities

### **Why Would an Offender be Released on Parole?**

Except for first-degree life sentences, all sentences are time limited. This means that most offenders will eventually be released from custody. When an offender is released on parole, that individual is supervised by a field parole officer and must comply with specific rules and conditions. Sometimes it is in the best interest of both the public and the offender for there to be supervision within the community rather than the offender completing the sentence and being released without any supervision.

### **Department of Correction Victim Service Unit**

**Phone:** 1-866-6VICTIM

**Web Site:** [www.state.ma.us/doc/vicsrcs](http://www.state.ma.us/doc/vicsrcs)

**Mission:** To provide information, assistance, and support to victims of crime and other concerned parties whose offenders are in the custody of the Massachusetts DOC. These services will be administered with respect, compassion, and confidentiality.

The Victim Service Unit (VSU) provides victims and CORI certified individuals with post-conviction offender information, emotional support, crisis intervention, safety planning, and referral services.

### **What Happens to an Inmate Once They Are Sentenced?**

The Massachusetts DOC's classification process commences once an inmate becomes incarcerated. When a male inmate receives a State Prison sentence, he is transported from the committing court to MCI Concord for booking, admission, and an initial classification review. Shortly after the review, the inmate will be transferred to the DOC facility deemed appropriate by the classification board. Maximum security facilities predominantly house inmates who have demonstrated disruptive behavior while incarcerated. A good percentage of inmates are housed at the medium security level until they are deemed appropriate for lower security placement.

Female inmates who receive State Prison sentences are transported directly from the committing court to MCI-Framingham, since it is the only female committing institution in Massachusetts. Female inmates undergo the same classification process at MCI-Framingham as male inmates do at MCI Concord.

All inmates must be reviewed by the classification board every six months during their incarceration. At this time a comprehensive report is prepared on the inmate and a classification hearing is held. The inmate is present, and recommendations are made indicating participation in appropriate programs as well as an appropriate correctional facility housing assignment.



# Victim Impact Statements

Preparing a Victim Impact Statement for your loved one's case can be an overwhelming and emotional task. It can feel as if you must sum up all that was special and precious about the person you love in a few brief minutes.

Although your remarks are addressed to the judge in your case, this is an important opportunity for you to publicly state, in front of the defendant, the effects of the murder on you and your family's lives. After sitting through difficult and upsetting testimony during which the focus has been on the defendant, it can be very empowering to have the chance to communicate how enormous that loss is that you have suffered and to speak about your loved one as a person - not a "victim," - sharing some of the things that made them special.



Everyone has many questions about how to begin writing their statement. Your victim witness advocate will work with you and your family individually to make sure that your specific needs are met. Some of the most common questions we hear from families preparing impact statements include:

### **What Exactly is a Victim Impact Statement?**

A Victim Impact Statement is a written or oral statement made by a family member or loved one of the victims to the court at sentencing. It describes the physical, emotional and financial effects of the crime; and recommends a sentence to be imposed on the offender.

### **When is an Impact Statement Given?**

An impact statement is given after a defendant is found guilty by a jury or judge or pleads guilty to a crime. The judge will hear your statement before imposing the sentence.

It is important to know that, although first degree and second-degree murder sentences are mandated under the law, you still have the right to give your statement to the judge. Make sure you discuss your desire to make a statement with the victim witness advocate and assistant district attorney assigned to your case.

### **Who Can Make an Impact Statement?**

As the family member of a homicide victim, you have the right to address the court. The judge will hear from at least one member of your loved one's family. Most judges will hear impact statements from more than one person, so we encourage everyone who wishes to give a statement to prepare one. These can be placed on file in the case and submitted to the Parole Board.

### **How is the Statement Presented to the Court?**

You may take the witness stand in the courtroom and address the court in an oral statement. If you would prefer, you can designate a friend or family member to read your statement for you. Also, the assistant district attorney can read your impact statement to the judge. Whether the statement is written or oral is up to you. Because giving an impact statement can be very emotional, we suggest that people write their thoughts down, so they don't forget anything they want to say. The written statement can then be forwarded to the Parole Board. You may also bring a picture of your loved one with you.

### **Who is Present When I Read My Statement?**

The judge will dismiss the jury in your case before the sentencing phase of the trial. The assistant district attorney, defense attorney, and defendant are present, along with court officers and the clerk magistrate. All courtrooms are open to the public, and frequently the defendant's family is also present.



## Some Helpful Guidelines

You may want to consider some of the following points as you prepare your statement:

- What was the emotional impact on you when the homicide occurred?
- If your loved one has children, what has been the emotional impact on them?
- What has been the emotional and psychological impact on you since then?
- Have you experienced changes in your physical health? Your daily routine? Your job performance? Your lifestyle?
- What is it that you miss and remember about your loved one?
- What are some things your loved one wanted to accomplish, or was excellent at doing already?
- What is your recommendation on sentencing?

It is important to know that there is no right or wrong way to compose your statement. Trust your ability to communicate the things you miss most about your loved one and how this murder has impacted your life. You will be writing something beautiful and powerful. Your victim witness advocate has worked with many people preparing impact statements and can help you draft something you feel comfortable presenting. Many people have also found that working on their statement in the course of therapy or sharing their thoughts and concerns with members of a support group has helped them sort their ideas.



# Unsolved Cases

Unsolved cases deserve special mention. Losing a loved one to violence is an indescribable tragedy, but many families find it hard to begin the healing process without the sense of closure that an arrest and trial can bring. Regardless of whether your loved one's case results in an arrest, our staff is here to offer resources, referrals, crisis intervention, and assistance.

**It is important for you to know that no homicide is ever closed by the police or the Suffolk County District Attorney's Office until an arrest is made and the case is resolved through the criminal process. There is no statute of limitations for murder.**

## **Project for Unsolved Homicides (PUSH)**

PUSH utilizes the expertise of both non-legal and legal staff members to internally review unsolved homicide cases with fresh eyes, renewed interest, and a deep commitment to help residents who lost a loved one to violence. The District Attorney assigns senior homicide unit staff with extensive experience to lead PUSH. They train all staff members that participate in the review process. Staff members conduct a preliminary administrative review in which they review case files to uniformly inventory each file and summarize their content and evidence and identify sources of leads and potential next investigative steps. The PUSH Assessment Committee then examines the findings of each administrative review to determine the next potential steps in the investigative process: either assigning legal staff within the office to continue the investigation or making recommendations to the Boston Police Department Homicide Unit or State Police Detective Unit.

## **Victim Witness Assistance**

The victim witness advocate assigned to your case will contact you and your family when our office first becomes involved in a murder investigation. All homicides, whether solved or unsolved, are also assigned to an assistant district attorney in the Homicide Unit. The Chief of the Homicide Unit will also contact your family by mail to offer condolences on behalf of the office and to confirm the victim witness advocate and assistant district attorney assigned to your loved one's case.

## **Victim of Violent Crime Compensation**

It is very important that you know the Victim of Violent Crime Compensation Fund of the Office of the Attorney General is available to assist your family even if your loved one's case is never solved. Your victim witness advocate will assist you in completing a Victim of Violent Crime form, which will be delivered to an advocate at the Office of the Attorney General. Your advocate will explain the workings of the fund, assist with completing forms, and, if necessary, assist family and funeral home staff with sending itemized billing information to the Office of the Attorney General.

The Victim Witness Assistance staff of the Suffolk County District Attorney's Office receives extensive training in the statute that governs victim compensation ((M.G.L. Ch. 258B) and the processing of applications. They will ensure that your request for assistance is processed in a quick and timely fashion. Please refer to the Victim of Violent Crime Compensation section of this booklet for an explanation of the compensation process.



## **Family Meeting**

You can meet with the assistant district attorney and victim witness advocate assigned to your loved one's case even if the case is not solved. Such a meeting can help to minimize the amount of suspicion and fear that many families feel when their case does not result in an immediate arrest.

## **Crisis Intervention**

Crisis Intervention services are a necessity for every family that loses a loved one to violence. For families with unsolved cases, it is important to connect to appropriate care providers who are trained to help your family deal with the issues unique to an unsolved murder.

Your advocate will assess with your family what therapy possibilities fit your needs. We will provide you with the names and numbers of therapists, social services, and support groups in your area. We can also assist in deciding what role family, friends, and the religious community can play in giving you the amount of support you will need.

## **Level of Contact With Family**

Many families appreciate being kept up to date on the status of their loved one's case even if there is no movement, while others prefer to be notified only in the event of major developments. This decision is entirely up to you and your family. Your family and your victim witness advocate will decide what level of contact is comfortable for you, and you can change or modify this decision at any time.



# Investigation of Fatal Police Shootings

Losing a family member or close friend as a result of a fatal police shooting is a profoundly difficult grieving situation. In addition to your grief there can be many complicating factors in handling your bereavement.

The Suffolk County District Attorney's Office Homicide Unit investigates all fatal police involved incidents in Boston, Chelsea, Revere, and Winthrop. A senior VWA and ADA will be assigned to your family's investigation. The assigned ADA will work with and report to the Discharge Integrity Team (DIT) all aspects of the investigation and is expected to give frequent updates and answer any questions. The DIT is a new independent team created by DA Rollins and is comprised of a trauma-informed member of the community, a retired superior court judge, a criminal defense attorney, and an active member of the law enforcement community. This outside independent team is led the First Assistant District Attorney. The DIT conducts regular monthly meetings in person at a location outside of the District Attorney's Office or by video conference. The District Attorney participates in all meetings.

Meeting with our office is a two-step process. Your first meeting will likely be with the DA and First Assistant DA. They will explain the process of the investigation. This initial meeting is important for you and your family for several reasons:

- You and your family will have direct access to the elected DA to walk through procedural steps in the investigative process.
- You will have a chance to voice your concerns and discuss the expected timeline of the investigation: fatal police shootings can take many months, and sometimes years to complete.
- You will get contact information for the office to direct your questions (e.g. what materials can and cannot be released or shared during various stages of the investigation?).

When the investigation of your case concludes, your victim witness advocate will contact you and your family to set up another meeting to discuss the outcome of the investigation.

## **Your Advocate Will Assist You With:**

- Crisis intervention, advocacy, and support
- Explanation of the investigation process
- Assistance with therapy referrals
- Assistance with filing a victim of violent crime application with the Office of the Attorney General (It is important to note that the Office of the Attorney General makes all decisions concerning compensation on a case-by-case basis).





### **What Your Victim Witness Advocate Cannot Do:**

- Your advocate cannot discuss the investigation's potential outcome with you over the telephone. This is due to the sensitive nature of these investigations. They will set up an appointment for you and your family once the investigation is completed.
- Your advocate cannot discuss the investigation with your attorney. Your attorney should refer all phone calls and written correspondence to your assigned assistant district attorney or DIT liaison.

### **What You Can Expect When You Meet To Discuss the Outcome of the Investigation:**

Once the Suffolk County District Attorney's Office has concluded its investigation, your victim witness advocate will arrange a convenient time for you and your family to meet and discuss its outcome.

- The DA will likely attend your meeting. You may bring family or support persons with you to the meeting.
- The assistant district attorney assigned to your investigation will also be present at the meeting to discuss with you and your family the reasons for your case's particular outcome.

We encourage you to be candid in your questions and concerns as the meeting progresses. Know that you can ask for a break if you feel you are getting too much information or getting it too quickly. You may feel that you need some time alone to regroup or regain composure during the meeting and the team will absolutely give you the time you need as a family to do so.

Your victim witness advocate is available to you after the investigation concludes. Whether it is to shepherd you through the criminal legal process if charges are brought against the officer or to assist you both with communicating with the other professionals who investigated your loved one's death and to offer crisis intervention and support, we will be there to help.

# Glossary of Legal Terms



The language used in court can be a very confusing part of your experience as a survivor of homicide. We have compiled a list of basic legal terms and definitions to help you understand the proceedings in your case.

These terms are meant to be an introduction. Your victim witness advocate will work directly with you and your family to prepare you for the experience of your loved one's trial. Remember, no question is unimportant; we are here to help you negotiate this difficult process.

**Accomplice:** A person who knowingly and voluntarily aids, assists, cooperates, or is an accessory with the principal offender in the commission of a crime.

**Acquittal:** The legal and formal certification that the state has not proved the guilt of a defendant beyond a reasonable doubt.

**Adjudication:** The determination or decision made by the court, usually resulting in a judgment of acquittal or a judgment of conviction.

**Admission to Sufficient Facts:** An acknowledgment on the part of the accused admitting that there is sufficient evidence to warrant a finding of guilty.

**Allegation:** The assertion, declaration, or statement of a party to an action made in a pleading, setting out what they expect to prove.

**Appeal:** A request to a higher court that it review matters litigated in a lower court. An appeal for review of the case is automatically filed by defense attorneys on behalf of all those convicted of first-degree murder.

**Appearance:** The procedure by which an attorney acknowledges their representation of a party in a case; also the submission of the defendant to the jurisdiction of the court.

**Appellant:** The party appealing a decision to a higher court.

**Appellee:** The responding party in a case being appealed to a higher court.

**Appellate Court:** A court that does not try criminal cases but hears appeals of decisions of lower courts.

**Arraignment:** The act of calling an accused person before the court to hear the charges lodged against them and to enter a plea in response to those charges.



**Arrest:** The apprehension or detention of an individual by legal authority for the purpose of charging them with a specific offense.

**Attorney Client Privilege:** A professional relationship between an attorney and a client that prevents the attorney from disclosing the content of communication to others with their client without the client's consent.

**Bail:** Monetary amount for, or condition of, pre-trial release from custody, normally set by a judge at the initial appearance. The purpose of bail is to ensure the return of the defendant to subsequent proceedings. If the defendant is unable to make bail, they are detained in custody.

**Bail Review Hearing:** An appeal to a justice of Superior Court for the reduction of bail set by a judge in a lower court.

**Bench Trial:** A trial held before a judge without a jury.

**Bench Warrant (or Capias Warrant):** A warrant issued "from the Bench" for the arrest of a person.

**Brief:** A written, or printed argument prepared by counsel to support their case, usually containing a statement of facts and a discussion of law.

**Burden of Proof:** A legal standard that establishes the amount of evidence that must be met for proving a case. The burden of proof in criminal trials requires prosecutors to prove beyond a reasonable doubt that a defendant is guilty of the alleged crime. The burden of proof in civil trials requires plaintiffs to prove their case by a preponderance of the evidence, which means that it is more likely than not that the facts alleged by the plaintiff occurred.

**Caption:** The heading on papers filed in a case, which shows the name of the parties, the name of the court, the case number, etc.

**Case Law:** The area of law where legal precedent has been created by earlier published court decisions. This law is distinct from the Constitution, state, and federal statutes, but often interprets them.

**Challenge for Cause:** To question formally a prospective juror's competency to render a fair verdict by showing bias or some other legal disability. If the judge agrees that a prospective juror would be unable to render a fair verdict, a challenge for cause will be accepted and the juror will be excused. The judge can also reject the challenge.

**Chambers:** The private room or office of a judge; sometimes called a judge's lobby.

**Change of Plea:** The act of changing one's plea of not guilty to guilty.

**Change of Venue:** The transfer of a case from one court to another having the same authority but in a different geographic location.

**Circumstantial Evidence:** Indirect evidence from which a judge or jury may reason from circumstances known or proved to establish by inference the principal fact.

**Civil Suit:** A court action brought by an individual who feels that they have been deprived of rights or has received some personal injury for which they should be compensated.

**Co-defendant:** One of two or more persons tried in the same criminal proceedings.

**Commutation:** An act of the Governor, with the assent of the Governor’s Council, changing a sentence imposed for a crime to a less severe punishment after a formal request from an offender.

**Competency:** A determination that a defendant has sufficient mental capacity to stand trial and to assist defense counsel in the defense of the charges.

**Complaint:** A formal written document submitted to the court formally initiating a civil or criminal proceeding.

**Complainant:** The party who begins a suit. This is synonymous with “plaintiff.”

**Contempt of Court:** The willful failure to obey a court order or the showing of disrespect or unacceptable behavior in the presence of the court.

**Continued Without a Finding (CWOFF):** A procedure by which, after accepting an admission of sufficient facts from a defendant, the court does not enter a guilty finding, but rather continues the case for a specified period of time. At the end of that time, if the defendant has not further violated the law and has met the conditions of the continuance, the charge is dismissed.

**CORI Certification:** A process by which a victim of crime or other resident or individual becomes eligible to receive certain information about a convicted offender.

**Corroborating Evidence:** Evidence tending to strengthen or confirm prior evidence.

**Court Order:** The decision of a judge on any motion or request by which a particular outcome is granted.

**Court Record:** Official record of a court’s decisions in a particular case.

**Default:** In a criminal case, failure to appear upon order of the court.

**Defendant:** A person who is formally charged with committing a crime or, in a civil case, a person against whom an action is filed for monetary damages or to enforce other rights.

**Defense Attorney:** The lawyer who represents the accused or a convicted offender in their dealings with criminal justice officials.

**Direct Examination:** Part of a trial when questions are asked of a witness by the attorney who called that witness to testify.

**Directed Verdict:** An instruction by the trial judge ordering that judgment be entered without the jury considering the matter. Used usually when one party has failed to produce enough evidence to prove each element of an offense.

**Discovery:** A pre-trial disclosure of facts and evidence to an opposing party.

**Dismissal with Prejudice:** A judge’s decision to terminate the prosecution of a pending charge in a case after which the same criminal charge cannot be brought against the defendant again at a later date.

**Dismissal without Prejudice:** A judge’s decision to terminate the prosecution of a pending charge in a case but which does not prevent the prosecution from bringing the same criminal charge against the defendant again in the future.

**Disposition:** The judge’s decision concerning what action to take in a case.



- Dissenting Opinion:** In appellate practice, an opinion of one or more judges which is not in accord with the majority opinion.
- Docket:** The calendar of court cases awaiting action on a particular day; also refers to the books in which all official court action on a case is recorded.
- Double Jeopardy:** The subjecting of a person to prosecution more than once for the same offense, prohibited by the Fifth Amendment.
- Due Process:** The Constitutional guarantee that legal proceeding will be carried out according to basic rules of fairness established for the protection of an individual's rights.
- Earned Credits:** Credit earned toward the reduction of an offender's sentence by participation in an institutionally run program while incarcerated. (This does not include an adult conviction for first degree murder.) Elements of Crime: Those essential parts of a crime which must be proved beyond a reasonable doubt by the prosecution to sustain a conviction.
- Et Al:** Latin abbreviation for et alii, meaning "and others," often used to shorten case names containing multiple plaintiffs or defendants.
- Evidence:** Any type of admissible information presented before a court that relates to or establishes a point in question, the use of which is dictated by laws and rules.
- Exclusionary Rule:** The principal that illegally obtained evidence must be excluded from a trial, as guaranteed by the Fourth Amendment to the U.S. Constitution or Article 14 of the Massachusetts Declaration of Rights.
- Exhibits:** Any document or other physical item offered and admitted into evidence at trial. Anything tangible produced in court during a trial that has been admitted in evidence.
- Ex Parte:** By or for one party, as in a hearing where only one side is heard.
- Expert Witness:** A specialist in a particular subject matter whose training and expertise is sought at trial to provide information and opinions on a contested issue and who is approved as an expert witness by the judge.
- Extradition:** The surrender by one state to another of an individual accused or convicted of an offense in the demanding state's jurisdiction.
- False Pretenses:** Intentional misrepresentation of facts or circumstances for the purpose of obtaining another's goods or services without just compensation.
- Felony:** A crime of a graver or more serious nature than those designated as misdemeanors.
- File:** To lay away and arrange in order pleadings, motions, instruments, and other papers for preservation and reference.
- Finding:** The formal decision of "guilty" or "not guilty" upon completion of the trial; also, a determination by a judge of the facts necessary to resolve a controversy (i.e., a decision on some type of motion).
- First Degree Murder:** Murder committed with deliberate premeditation, or with extreme atrocity or cruelty, or in the commission or attempted commission of a crime punishable by imprisonment for life during which the defendant acted with malice.
- Guardian Ad Litem:** A person appointed by the court to represent the rights of minors, the unborn, and others under legal disability.

**Grand Jury:** A group of 23 citizens whose duty is to receive complaints and hear evidence in criminal cases as presented by the prosecutor, and to decide whether that evidence is sufficient to charge an individual with a crime by issuing an indictment.

**Habeas Corpus (Habe):** A writ or judicial order requesting that a person holding another person produce the prisoner and give reasons to justify continued confinement.

**Hearing:** A court proceeding in which evidence and/or arguments on a particular legal issue are presented to a judge.

**Hearsay:** Evidence not of a witness' personal knowledge but from the mere repetition of what he has heard others say.

**Hostile Witness:** A witness who is antagonistic and adverse to the party who called them to testify and, therefore, may be questioned by the use of leading questions.

**House of Corrections:** A county correctional facility run by the county sheriff to house defendants awaiting trial and those convicted offenders who are sentenced to shorter terms or for crimes which the law determines to be less serious.

**Hung Jury:** A jury so irreconcilably divided in opinion that they cannot agree upon any verdict. When this occurs, the defendant may be tried again before another jury, with probable appeal before retrial, regarding the sufficiency of the Commonwealth's evidence before the first jury.

**Impeachment of Witness:** Throwing doubt on the credibility of a witness by testimony showing prior inconsistency, contradiction, or a conviction of a crime.

**In Camera:** In chambers; in private.

**Inadmissible:** Evidence that under established rules cannot be considered.

**Incident Report:** A police officer's written report of a police response to a reported crime.

**Immaterial:** Not necessary, important or essential.

**Indictment:** A formal charge of a crime by findings of a grand jury.

**Injunction:** A court order directing one or more persons to refrain from doing specified acts.

**Insanity Defense:** A criminal defense that is based on the theory that a defendant suffered such a degree of mental impairment that they were unable to understand the nature and consequences of their criminal actions.

**Instruction:** The explanation by the judge to the jury of the law to be applied to the facts.

**Jurisdiction:** The territory or boundaries within which control may be exercised. The legal and geographical range of a court's authority.

**Jury:** A panel consisting of a statutorily defined number of citizens selected according to law and sworn to determine matters of fact in a criminal action and to render a verdict of guilty or not guilty at trial.

**Leading Question:** A question asked by an attorney of a witness that offers information and requires a yes or no answer. Leading questions are permitted only by opposing counsel during cross examination, or to a witness who has been declared a hostile witness during a direct examination.



**Malice:** Intent to kill, intent to do grievous bodily harm, or conducting acts which a reasonable person likely would believe would result in death or grievous bodily injury.

**Mandatory Sentence:** A type of sentence that by statute requires that a fixed penalty be imposed upon conviction for certain crimes and does not allow a judge discretion in sentencing.

**Manslaughter:** An unlawful killing without premeditation or malice. It can be voluntary or involuntary, depending upon the circumstances attending the killing.

**Material:** Important; having influences or effect.

**Material Witness:** A person who can give testimony relating to a particular matter that no one else, or at least very few others, can give.

**Mediation:** A process by which a trained facilitator assists the conflicting parties in reaching a settlement.

**Miranda Rule:** Prior to any questioning initiated by law enforcement officers after a person is taken into custody or otherwise deprived of their freedom in any significant way, the person must be warned: 1) That they have the right to remain silent; 2) That any statement they make may be used as evidence against him; 3) That they have a right to the advice of an attorney; 4) That if they cannot afford an attorney, one will be appointed for them prior to any questioning if they so desires. The person must also be informed that if they decide to answer questions without an attorney present, they still have the right to stop questioning at any time until they have the opportunity to talk to an attorney. They are then asked if they understand each of the above rights as explained to them, and if, having those rights in mind, they still wish to talk to law enforcement officers. A printed card listing the above warnings, with a space available to record the date and time they were read to the individual is then signed by them, a witness, and a police officer. Unless and until these warnings or a waiver of these rights are demonstrated at the trial, no evidence obtained in the interrogation may be used against the accused, if they were subjected to custodial interrogation.

**Misdemeanor:** An offense less serious than a felony and usually punishable by incarceration for no more than two- and one-half years, a fine, or probation.

**Mistrial:** A trial which is terminated by a judge prior to its normal conclusion due to some extraordinary event, such as the death of a juror or an attorney; for prejudicial error that cannot be corrected at trial; or because of a deadlocked jury.

**Motion:** An application to a court requesting that an order be issued to bring about a specified action.

**Motion for a New Trial:** A request that the judge set aside the verdict and order a new trial on the basis that the trial was improper or unfair due to specified prejudicial errors that occurred.

**Motion to Suppress:** A device used to eliminate from the trial of a criminal case evidence that allegedly has been secured illegally, generally in violation of the Fourth Amendment (Search and Seizure), the Fifth Amendment (privilege against self-incrimination), the Sixth Amendment (right to assistance of counsel, right of confrontation, etc.) and/or the Fourteenth Amendment (due process) of the U.S. Constitution.

**No Bill:** When the Grand Jury fails to find probable cause that a defendant has committed a crime and thus fails to hand down an indictment. A "no bill" vote brings to an end the criminal process against the defendant, unless the prosecutor can present additional evidence to convince the Grand Jury that an indictment of "true bill" should be issued, in which case the defendant would be held for trial.

**Nolo Contendere:** A defendant's formal answer in court in which it is stated that the charges are not contested and which, while not an admission of guilt, subjects the defendant to the same sentencing consequences as a plea of guilty.

**Nolle Prosequi:** The termination of court action by the prosecutor's decision not to pursue the case.

**Not Guilty:** Plea entered by the accused to a criminal charge. If the defendant refuses to plead, the court will enter a plea of not guilty. Also, the form of the verdict in criminal cases where the jury acquits the defendant or finds them not guilty.

**Objection:** Opposition by either the prosecutor or defense attorney to some matter or proceeding in the course of a trial, or an argument or reason urged by them in support of their contention that the matter or proceeding objected to is improper or illegal. Objections are used to call the court's attention to improper evidence or procedure.

**Overruled:** The judge's denial of an objection raised by a party. If an objection to a question is overruled, the judge allows the question to be answered and the evidence objected to is admitted for the jury or judge's consideration.

**Panel:** A selected jury; sometimes refers to the entire body of persons summoned for jury duty.

**Pardon:** An act of the Governor releasing a prisoner from serving the remainder of a sentence.

**Parole:** The conditional, supervised release of an inmate from incarceration under supervision after a portion of the prison sentence has been served.

**Parole Board:** The state agency authorized to determine whether and under what conditions an eligible offender should be released to serve the remainder of their sentence in the community. The Parole Board also makes recommendations to the Governor on the merits of petitions for pardons and commutations, supervises all those released on parole, and revokes parole permits for violations of parole conditions.

**Parole Officer:** An employee of the Parole Board responsible for supervising offenders throughout their parole period.

**Peremptory Challenge:** Removal of a prospective juror without stating a reason. The number of such challenges permitted to the prosecution and the defense is limited, and challenges are not allowed if they are part of an effort to exclude based on membership in a protected class.

**Perjury:** Stating under oath as true what is known to be false.

**Personal Recognizance:** A pretrial release in which the defendant signs a promise to appear in court whenever notified to do so but does not pledge anything of value to be forfeited upon nonappearance on a court date.

**Plaintiff:** The party that brings suit or complaint in court.

**Plea Agreement:** An admission in court by the defendant to some or all of the charges, based on an agreement that the prosecutor will make a certain sentence recommendation. If the defendant enters a guilty plea, there is no need for a trial.

**Presentence Report:** A report completed by the probation officer and submitted to the judge before the sentencing of a defendant. The report is based on an investigation by the probation officer into the defendant's background, the circumstances of the crime, and information supplied by the victim.

**Presumption of Innocence:** A fundamental principle of law that assumes the defendant is innocent of the offense charged and requires that the prosecution prove the guilt of the defendant beyond a reasonable doubt.





**Pretrial Conference:** A hearing, before trial, at which the parties may discuss the merits of the case, exchange discovery information, and possibly work out a plea agreement.

**Probable Cause:** A set of facts or circumstances that would indicate to a reasonable person that a particular individual committed an offense.

**Probation:** A sentence whereby a judge grants conditional freedom to a convicted offender. The offender is required to abide by established conditions or face a period of imprisonment.

**Probation Department:** A court agency whose primary functions include the investigation and supervision of individuals placed on probation by the court and the preparation of presentence reports to assist judges in determining the appropriate penalty.

**Probation Officer:** An employee of the probation department whose main responsibility is the supervision of a convicted offender who is not incarcerated.

**Prosecutor:** An attorney employed by a government agency whose primary responsibility is to conduct criminal proceedings against individuals accused of committing criminal offenses and keeping the community safe.

**Public Defender:** An attorney employed by a government agency to represent defendants who are unable to pay the costs of hiring an attorney. Also, the term sometimes applies to a private attorney when appointed by the court to represent defendants who are unable to pay the costs of hiring an attorney.

**Reasonable Doubt:** Doubt based on reason and arising from evidence or lack of evidence. Reasonable doubt is such a doubt as would cause a prudent person to hesitate before acting in matters of importance to themselves.

**Rebuttal:** Evidence offered to contradict earlier evidence.

**Recuse:** To disqualify oneself as a judge in a particular case.

**Redirect Examination:** Re-questioning a witness after cross-examination.

**Rendition:** Interchangeable with extradition.

**Rest:** A prosecutor or defense attorney rests when they have presented all the evidence they intend to offer in a case.

**Restitution:** A condition of a sentence imposed by a court that requires the offender to pay for crime-related financial losses incurred by the victim, such as repair or replacement costs for damaged or stolen property.

**Required Finding of Not Guilty:** A motion made by a defendant at the close of the Commonwealth's case arguing that the evidence presented, even if viewed in the light most favorable to the Commonwealth, is insufficient, as a matter of law, for a reasonable jury or judge to conclude that the defendant is guilty of each and every element for the crime beyond a reasonable doubt. A required finding of not guilty is commonly referred to as a directed verdict. If the defendant's first motion for a required finding is denied, they will usually renew their motion at the close of all evidence.

**Search Warrant:** Written judicial authorization for a search of specified premises for specified items.

**Second Degree Murder:** The unlawful taking of a human life with malice, but without the other aggravating element of first-degree murder, e.g., without deliberate premeditation.

**Self-incrimination:** The act of exposing oneself to prosecution by being forced to answer questions that may tend to incriminate oneself. It is protected against by the Fifth Amendment. In any criminal proceeding, the prosecution must prove the charges by means of evidence other than the testimony of the accused.

**Self-defense:** The right to protect oneself against some injury attempted by another provided that the use of such force is reasonably necessary to repel the attack of another. A defense to a criminal charge.

**Sentencing Guidelines:** An instrument developed to indicate to judges the usual sanction given in the past in particular types of cases.

**Sentencing Review:** A process whereby a board of review may consider the propriety of sentences appealed to it in individual cases. After hearing an appeal, the board may increase or decrease the original sentence. In Massachusetts the Superior Court Appellate Division hears sentence appeals.

**Sequester:** To set witnesses apart from the court proceedings so that they do not hear the testimony of other witnesses, or to set apart a jury during court proceedings and/or deliberations so that the jurors are not unduly influenced in reaching their verdict in a case.

**State Prison:** A correctional facility run by the Commonwealth's Department of Correction to house convicted offenders who are sentenced to longer terms, up to and including life without the possibility of parole, or for crimes which the law determines to be more serious.

**Statute of Limitations:** A law which sets forth the period of time within which a civil action or criminal prosecution must be started after the date of the crime or wrongful act.

**Statute:** A law enacted by the legislative assembly of a state.

**Statutory:** Enacted, regulated, or authorized by statute.

**Stay:** The postponement of judicial action by court order, usually temporary and usually related to some other contemplated action.

**Stipulation:** A statement by the attorneys or the parties that certain matters have already been agreed upon.

**Superior Court Department:** The part of the Massachusetts Trial Court which has jurisdiction over all crimes and generally exercises jurisdiction over the most serious felony matters (those carrying potential sentences of ten years or more in state prison).

**Suspended Sentence:** A punishment (sentence) ordered by the court that is suspended for a specific period of time. If the defendant engages in any illegal activity or does not follow the terms of suspension during this period, the sentence is immediately imposed. At the end of the designated period the defendant's sentence is terminated.

**Sustain:** A judge's acceptance of any objection to evidence or conduct. If an objection is sustained, then the evidence or conduct will not be admitted for the jury's or judge's consideration.

**Testimony:** Statements given under oath by witnesses as evidence in court.

**Time Served:** A period of time spent in confinement during the pendency of a case, prior to conviction and sentence, which is subtracted from the amount of time an offender is required to be incarcerated.



**Transcript:** The official record taken by an authorized stenographer during a trial or hearing.

**Transfer Hearing:** A court proceeding in which a judge decides whether or not a juvenile between the ages of 14 and 17 should be prosecuted in the adult court system.

**Trial:** A legal proceeding consisting of an examination in court of the issues of fact and law in a case, for the purpose of reaching a judgment of conviction or acquittal of the defendant in a criminal case or the liability and damages caused by a defendant in a civil case. Trials can be before a jury or a judge (bench trial).

**True Bill:** The endorsement made by a grand jury when they find sufficient evidence to warrant a criminal charge (an indictment).

**Venue:** A place from which a jury is drawn and in which a trial is held.

**Verdict:** The formal decision or finding made by a jury upon completion of the trial.

**Victim:** The person who is the object of a crime.

**Victim Impact Statement:** A written or oral statement made by the victim to the court at sentencing describing the physical, emotional and financial effects of the crime and recommending a sentence to be imposed on the offender.

**Voir Dire:** An examination of prospective jurors by which the attorneys and judge screen out individuals who might be biased or incapable of rendering a fair verdict.

**Waiver of Immunity:** The relinquishment by a witness of their right against self-incrimination.

**Warrant:** An order from the court to arrest a person.

**Witness:** A person whose declaration under oath is received as evidence for any purpose, whether such declaration be made on oral examination or by deposition or affidavit. In a criminal case in Massachusetts, in-person testimony is almost always necessary.

**Writ:** A written order issued by a court directing the person to whom it is addressed to perform or refrain from a specified act.

**These terms are only meant to be an introduction.** Please contact your victim witness advocate in the Suffolk County District Attorney's Office Homicide Unit with any questions you may have.

# Acknowledgements

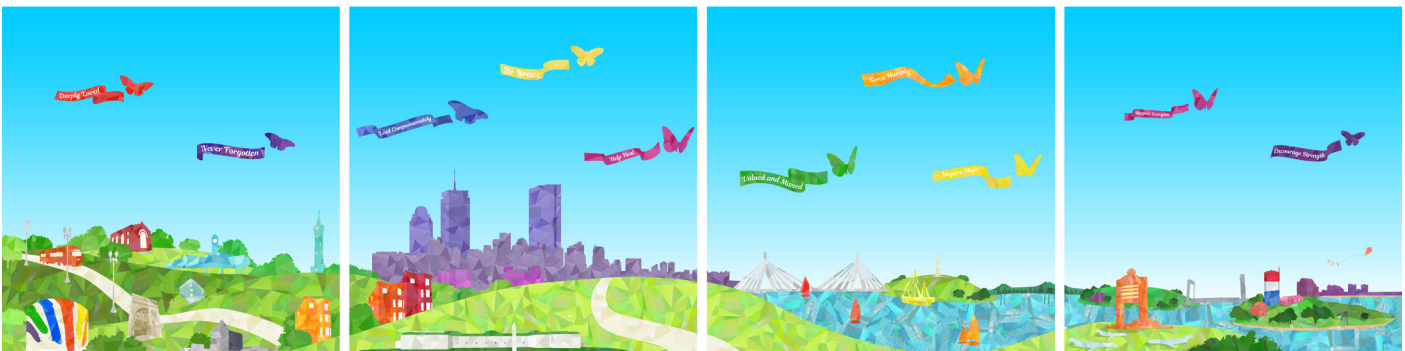
In Suffolk County we prioritize victims, witnesses and survivors by making sure they are served by our office with compassion and integrity, but also by ensuring they have access to helpful resources. We represent the entire community and are committed to treating everyone that comes into contact with the criminal legal system and our office with dignity, compassion, and respect. This 3rd edition of the manual is just an example of our commitment to this. I would like to take the time to acknowledge those that have contributed to the development of this manual over the past two decades. This manual would not have been possible without their input and collaboration.

## Partners:

- Massachusetts Office of Victim Assistance
- Survivor-activist Janet Connors and Michael Person
- Members of Victim Witness Assistance Programs, at the Northwestern and Norfolk County District Attorney's Offices

## Former and current staff of the Suffolk County District Attorney's Office:

- Former District Attorney Rachael Rollins and administrative personnel
- Former District Attorney Daniel F. Conley and administrative personnel
- Homicide Unit staff
- Victim Witness Assistance Program staff including advocates Kara Hayes, Michael Glennon, and Charlene Luma



**Pictured above:** Survivor's Mural by Artists for Humanity. Commissioned by DA Rollins in 2021 to commemorate Victims' Rights Week.







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