



Mutually Assured Success

PROSECUTORS & CAC MDT MEMBERS WORKING TOGETHER

Overview

- **THE MIND OF THE PROSECUTOR**
- **THE TEAM**
- **THE LAW**
- **VICTIM RESOURCES**

The Mind of the Prosecutor

- ▶ This is a very scary and dark place
 - ▶ Full of stress and fear
- ▶ Preparing for every possible issue that may arise
- ▶ By the time the trial is starting, the prosecutor may not have slept in days, may be vomiting in the bathroom & is feeling pumped full of adrenaline
- ▶ Basically a pressure cooker





A Prosecutor's Perspective

NOT TELLING YOU YOUR JOB, JUST FROM OUR SIDE

Role of the Victim Advocate

- ▶ Advocate for the victim
 - ▶ Keep in touch
 - ▶ Help get into counseling
 - ▶ Keep prosecutor informed of any issues or pitfalls that may arise
 - ▶ Victim moving
 - ▶ Victim self-harming
 - ▶ Set up meetings
 - ▶ Be present at the meetings
- ▶ Meetings
 - ▶ Talk to prosecutor in advance
 - ▶ Understand expectations prosecutor has of advocate
 - ▶ Understand nature of the meeting
 - ▶ Meet and greet?
 - ▶ Substantive issues
 - ▶ Do not be a witness/prover
 - ▶ Incremental disclosures
 - ▶ Brady obligation

Role of a Forensic Interviewer

- ▶ From the beginning, understand the big picture of the case
 - ▶ Details in interview
 - ▶ Location description
 - ▶ Time/date/season
 - ▶ Sensory observations
 - ▶ Other witnesses
- ▶ If possible, write an accurate summary of the interview as soon as possible
- ▶ Be up to date on research/training
- ▶ Be prepared for 115-10 hearing
 - ▶ Push the prosecutor to meet before
 - ▶ Your reputation is on the line
 - ▶ Tell prosecutor about any potential issues in advance
 - ▶ Watch DVD and review documents
- ▶ Be prepared for trial
 - ▶ Push for a pretrial meeting
 - ▶ Ask to go over prior testimony/transcripts from hearings

Role of Law Enforcement

- ▶ From the start:
 - ▶ Work with the team & understand value of the team
 - ▶ Watch the VSI with an eye toward what you can find to back the kid up
 - ▶ Verify location of other parties
 - ▶ Verify if location matches
 - ▶ Interview all witnesses
- ▶ For hearings
 - ▶ Be prepared
 - ▶ Read report
 - ▶ Push for a pretrial with the prosecutor
 - ▶ Know your report before any questions are asked
- ▶ For trial
 - ▶ Review prior testimony
 - ▶ Push for a pretrial

Role of the Doctor/Nurse Practitioner

- ▶ Do not do a new interview of the child
- ▶ Follow up with medical provider if necessary
 - ▶ History of UTIs
 - ▶ Any complaints
 - ▶ Redness
- ▶ Keep up to date on research in field
 - ▶ 2013 – findings consistent with abuse
 - ▶ 2015 – normal exam
- ▶ Push for a pretrial with the prosecutor
- ▶ Be able to explain results in simplest terms
- ▶ Be able to explain a “normal exam”
- ▶ Make sure you know what sort of expert the prosecutor listed you as
 - ▶ Child abuse?
 - ▶ Forensic medical exams?
- ▶ Be on the same page

Role of DCFS

- ▶ Work with the team
 - ▶ Make sure child is safe
 - ▶ Complete investigation
 - ▶ Help child get counseling, medical treatment, etc.
 - ▶ Make sure investigative packet is as accurate as possible
- ▶ May be called at a 115-10 hearing
 - ▶ Be prepared
 - ▶ Understand reason why
 - ▶ Understand need to not be leading
 - ▶ Understand need to be accurate
 - ▶ May be called to testify at trial
 - ▶ Push to meet with prosecutor in advance

Case Reviews

- ▶ All parties should be present
 - ▶ Should take as long as needed to discuss all issues
 - ▶ Prosecutor needs to know accurate, factual information in order to make a decision
 - ▶ “He confessed” is not enough
 - ▶ “The victim disclosed” is not enough
 - ▶ Victim has a right to meet with prosecutor even if not charged
- ▶ Meaningful conversation should be had
 - ▶ Not charge focused
 - ▶ Though charges should be discussed
 - ▶ If no charges, then what is the plan
 - ▶ Could there be charges down the road?
 - ▶ Counseling for the victim
 - ▶ Make sure an advocate and victim are matched up

The Law

Ethical Obligations

- ▶ Prosecutor's have the obligation to seek justice and not merely convictions
- ▶ We represent all the People of the State of Illinois
 - ▶ The prosecutor is the representative of all people, including the defendant, and it is a prosecutor's duty to safeguard the constitutional right of the defendant just as any other citizen
 - ▶ *People v. Cochran*, 313 Ill 508 (1924)
- ▶ **Ethical Rule 3.8**
 - ▶ Special Responsibilities of a Prosecutor
 - ▶ Refrain from prosecuting a charge the prosecutor knows is not supported by probable cause
 - ▶ Only charge cases that the prosecutor knows there is a reasonable likelihood of a conviction based on the admissible evidence

Common Charges

- ▶ **Predatory Criminal Sexual Assault of a Child 720 ILCS 5/11-1.40**
 - ▶ Victim under 13
 - ▶ Act of sexual penetration
 - ▶ More than one victim = mandatory natural life sentence

- ▶ **Aggravated Criminal Sexual Abuse 720 ILCS 5/11-1.60**
 - ▶ Victim under 13 with sexual conduct
 - ▶ Victim 13-16 with sexual penetration or sexual conduct and suspect 5 years older
 - ▶ Position of trust, authority or supervision

Other crimes to consider

▶ **Grooming** 720 ILCS 5/11-25

- ▶ Uses a computer on-line service, Internet or device capable of electronic data storage to seduce, solicit, lure or entice or attempt to someone believed to be a child to commit any sex offense
- ▶ Class 4 felony
- ▶ Not how we typically think of grooming

▶ **Traveling to meet a minor** 720 ILCS 5/11-26

- ▶ Person travels any distance or causes another to travel for the purpose of engaging in any sex act with a child or someone the person believed to be a child
- ▶ Class 3 felony

Other crimes to consider

▶ **Sexual exploitation of a child 720 ILCS 5/11-9.1**

- ▶ Presence or virtual presence of a child with knowledge a child or one believed to be a child would view acts
- ▶ Engages in a sexual act
- ▶ Exposes sex organs, anus or breast for purpose of sexual arousal or gratification
- ▶ Entices, coerces or persuades a child to remove clothing for purpose of sexual arousal or gratification

▶ **Sexual conduct 720 ILCS 5/11-0.1**

- ▶ Not only includes touching of sex organs, anus or breast
- ▶ Also includes transmission of semen by the accused upon any part of the clothed or unclothed body of the victim
- ▶ Also includes touching of ANY PART of the body of a child under 13 years of age for purpose of sexual gratification or arousal of victim or accused
- ▶ Jerome Jacobs

Laws that help us

▶ **Prior sexual activity or reputation as evidence** 725 ILCS 5/115-7

- ▶ **AKA Rape Shield**
- ▶ Prior sexual activity or the reputation of the alleged victim or corroborating witness is inadmissible EXCEPT
 - ▶ As evidence concerning the victim or witness's past sexual conduct with the accused when offered by the accused on the issue of consent OR
 - ▶ When it is constitutionally required to be admitted
 - ▶ No evidence admissible under this section shall be introduced unless ruled admissible by the trial judge after an offer of proof

▶ **Court may not order mental examination of sex victim** 725 ILCS 5/115-7.1

- ▶ Court may not order mental exam of a sex victim
- ▶ No court may require or order a witness who is the victim of an alleged sex offense to submit to or undergo either a psychiatric or psychological exam

Laws that help us

▶ **Prosecution for illegal sexual act perpetrated upon a victim; admissibility of evidence of posttraumatic stress syndrome 725 ILCS 5/115-7.2**

- ▶ An expert, who is qualified by the court, can testify relating to any recognized and accepted form of post-traumatic stress syndrome
- ▶ Does not need to be a treating expert
- ▶ John Barnes

▶ **Evidence in certain cases 725 ILCS 5/115-7.3**

- ▶ Allows other crimes evidence ie other victims or other acts with same victim
- ▶ Used for any purpose including propensity to commit the crime charged as well as motive, lack of mistake or any other reason
- ▶ Court must consider:
 - ▶ Proximity in time
 - ▶ Degree of factual similarity
 - ▶ Other relevant facts

Laws that help us

- ▶ **Certain hearsay exceptions 725 ILCS 5/115-10**
 - ▶ Hearing before trial
 - ▶ Victim under 13 years old
 - ▶ Must testify at the trial
 - ▶ Generally the forensic interviewer and outcry witnesses
 - ▶ Many victim families think this means child will not have to testify at trial – NOT TRUE
- ▶ **Use of word “rape” 725 ILCS 5/115-11.1**
 - ▶ The use of the word rape, rapist or any derivative of rape by anyone is not inadmissible

Laws that help us

- ▶ **Prosecution for sex offenses; victims under 18 years; persons excluded from proceedings 725 ILCS 5/115-11**
 - ▶ Victim is under 18 years of age
 - ▶ Court may exclude from the proceedings, while the victim is testifying, all persons who in the opinion of the court do not have a direct interest in the case, except the media.
 - ▶ File a motion in advance
- ▶ **Hearsay exception; statements by victims of sex offenses to medical personnel 725 ILCS 5/115-13**
 - ▶ Statements made by the victim to medical personnel for purposes of medical diagnosis or treatment including descriptions of the cause of symptom, pain or sensations or the inception or general character of the cause or external source as reasonably pertinent to diagnosis or treatment shall be admitted as an exception to the hearsay rule.
 - ▶ Could include description or identity of the suspect if medical personnel deems that relevant information for treatment

Laws that help us

▶ **Witness competency 725 ILCS 5/115-14**

- ▶ Every person is qualified to be a witness regardless of age
- ▶ A person can be disqualified if he or she is:
 - ▶ Incapable of expressing him/herself concerning the matter as to be understood or
 - ▶ Incapable of understanding duty to tell the truth
- ▶ Must file a motion and have a pretrial hearing

▶ **Testimony by a victim who is a child 725 ILCS 5/106B**

- ▶ Child under age 18
- ▶ May testify outside the courtroom and shown in the courtroom by means of a closed circuit television if:
 - ▶ Testimony is taken during proceeding and
 - ▶ The judge determines the child's testimony in the courtroom would result in the child suffering serious emotional distress such that the child cannot reasonably communicate or that it will cause the child to suffer severe adverse effects
- ▶ This is a heavy burden as it impacts the Confrontation Clause

Laws that help us

- ▶ **Conditions for testimony by a victim who is a child 725 ILCS 5/106B-10**
 - ▶ Allows the use of a “facility dog”
 - ▶ Dog that is a graduate of an assistance dog organization that is a member of Assistance Dogs International



Laws that help us

- ▶ **Statute of limitations**
 - ▶ There is no longer a statute of limitations on child sex cases
 - ▶ Can be prosecuted at any time
 - ▶ Tremendous benefit, but also difficult to prove cases that happened long ago



Marsey's Law

- ▶ Marsey's Law was a campaign spearheaded by Henry Nicholas III after his sister was murdered in 1983 by her ex-boyfriend.
- ▶ Nicholas is working across the country to get this Constitutional Amendment passed state by state
- ▶ In Illinois, the Marsey's Law Amendment to the Illinois State Constitution was passed by a ballot referendum in November 2014
- ▶ After that, advocates and prosecutors met and completed revisions to the Rights of Crime Victims and Witnesses Act (725 ILCS 120/1 et.seq.) to implement the rights guaranteed by the Constitutional Amendment
- ▶ This Bill was signed into law on August 25, 2015 and went into effect immediately.
- ▶ Can be located in Article I, Section 8.1 of the Illinois Constitution

Crime Victim Rights

▶ **Crime Victim or Victim**

- ▶ Multiple prongs depending on age & competency of person, whether person died, whether victim had a role in offense
- ▶ A victim may choose any person to be their representative (725 ILCS 120/3(a))
- ▶ Persons under 18 years (725 ILCS 120/3(a)(2))
 - ▶ Minor is the victim and may be competent to assert his/her rights
 - ▶ Victims are ALSO both parents, legal guardians, foster parents or a single adult representative
 - ▶ May choose any person as their representative but cannot designate another to be the victim
 - ▶ Understand then if there is a minor victim and 2 parents, ALL 3 can exercise these rights

▶ **Victim's attorney (725 ILCS 120/3(g))**

- ▶ An attorney retained by the victim to assert the victim's constitutional and statutory rights
- ▶ Hired to represent the victim at the victim's expense (can be *pro bono*)

▶ **Violent Crime (725 ILCS 120/3(c))**

- ▶ Any felony in which force or threat of force was used against the victim
- ▶ Any offense involving sexual exploitation, sexual conduct or sexual penetration
- ▶ A violation of 720 ILCS 11-20.1 (child pornography), 720 ILCS 11-20.1B, 720 ILCS 11-20.3 or 720 ILCS 11-23.5 (non-consensual dissemination of private sexual images)

▶ **Confer (725 ILCS 120/3(a-5))**

- ▶ To consult together, share information, compare opinions & carry on a discussion or deliberation

▶ **Witness (725 ILCS 120/3(b))**

- ▶ Person who personally observed the commission of a violent crime & will testify on behalf of the prosecution in the criminal prosecution of the violent crime

▶ **Advocate (725 ILCS 120/3(a-3))**

- ▶ Person whose communications with the victim are privileged pursuant to 735 ILCS 5/8-802.1 & .2
 - ▶ Rape crisis center, DV program, program or agency providing services to victims of violent crimes

Crime Victim Rights

- ▶ **Court proceeding (725 ILCS 120/3(e))**

- ▶ Very broad & includes:

- ▶ Preliminary hearing
 - ▶ Post arraignment hearing that could result in the release of the defendant from custody or alter the conditions of bond
 - ▶ A plea or sentencing hearing
 - ▶ Trial, and any pretrial or post-trial hearing
 - ▶ Sentencing hearing and notice of appeal
 - ▶ Any oral argument or hearing before the Illinois appellate court
 - ▶ Any hearing under the Mental Health & Developmental Disabilities Code after a finding that the defendant is not guilty by reason of insanity

- ▶ Any hearing related to modification of sentence including probation revocation hearing, parole hearings, conviction proceedings, habeas corpus proceedings & clemency proceedings related to defendant's conviction or sentence

- ▶ **Court proceeding (725 ILCS 120/3(e))**

- ▶ Does NOT include the right to be present at

- ▶ Hearings under 725 ILCS 5/109-1
 - ▶ Initial appearance
 - ▶ Grand Jury proceedings
 - ▶ Issuance of an order or decision of an Illinois court that dismisses a charge, reverses a conviction, reduces a sentence, or releases an offender under court

Crime Victim Rights

- ▶ **Inform** victims of various constitutional and statutory rights including:
 - ▶ Right to retain an attorney (725 ILCS 120/4.5(b)(9.3))
 - ▶ Right to be present at all court proceedings, unless victim is to testify AND court determines that testimony would be materially affected if victim heard other testimony (725 ILCS 120/4.5(b)(8.5))
 - ▶ Right to have advocate or support person present at all court proceedings (725 ILCS 120/4.5(b)(9))
 - ▶ Right to have translator present at all court proceedings (725 ILCS 120/4.5(b)(7))
- ▶ Right to make a statement at sentencing (725 ILCS 120/4.5(b)(9.5)(A))
- ▶ Right of the victim's spouse, guardian, parent, grandparent & other immediate family or household member to present an impact statement at sentencing (725 ILCS 120/4.5(b)(9.5)(B))
- ▶ If a presentence report is ordered, the right of the victim's spouse, guardian, parent, grandparent & other immediate family/household members to submit information to the person preparing the PSI about the effect of the offense on the victim and the person (725 ILCS 120/4.5(b)(9.5)(C))

Crime Victim Rights

- ▶ The prosecutor or prosecutor's staff **MUST** provide the following **notifications**:
 - ▶ The filing of an information, return of an indictment or filing of a petition to adjudicate minor as delinquent for a violent crime (725 ILCS 120/4.5(b)(1))
 - ▶ The date, time & place of court proceedings, any change in the date, time & place & any cancellation of court proceedings. This must be given in sufficient time, when possible, for the victim to make arrangements to be there or not come unnecessarily (725 ILCS 120/4.5(b)(2))
 - ▶ The defendant's release on bail or recognizance bond or a minor's release within a reasonable time after receiving this information from "the defendant's custodian." (725 ILCS 120/4.5(b)(13))
 - ▶ Helping a victim sign up for VINE can accomplish this ((725 ILCS 120/8.5(d))
 - ▶ If the victim does not have access to a phone or internet, need to mail them notification
- ▶ The ultimate disposition of the case (725 ILCS 120/4.5(b)(16))
- ▶ Provide appropriate notification to victims' employers to ensure victim is able to cooperate & minimize loss of pay or benefits (725 ILCS 120/4.5(b)(5))
- ▶ Make all reasonable efforts to consult with the victim before making an offer of a plea bargain or entering into negotiations & consider written victim impact statements prior to entering into a plea agreement (725 ILCS 120/4.5(b)(15))
 - ▶ NOTE: Victim does NOT have a right to veto a plea agreement or insist on a trial.
- ▶ If prosecutor did not consult with the victim prior to making an offer or entering into plea negotiations, the prosecutor **MUST** notify the victim of the offer/negotiations within 2 business days and confer with the victim (725 ILCS 120/4.5(b)(15))
- ▶ Explain in nontechnical language the details of any plea, verdict or adjudication (725 ILCS 120/4.5(b)(14))

Crime Victim Rights

- ▶ Prosecutor and staff **SHALL** continued:
 - ▶ When possible, provide a secure waiting area during court proceedings that does not require victims to be in close proximity to defendants or minors accused of a violent crime, or their families & friends (725 ILCS 120/4.5(b)(6))
 - ▶ At the sentencing hearing, make a good faith attempt to explain the minimum amount of time the defendant may actually be in-custody (725 ILCS 120/4.5(b)(10))
- ▶ A victim may complete a written notice of intent to assert rights (725 ILCS 120/4.5(c-5)(1))
 - ▶ The AG's Office has prepared a form
 - ▶ Prosecutor needs to provide that form to the victim
 - ▶ Victim can revise the form at any time
 - ▶ At the beginning of any court proceeding in which the right of a victim may be at issue, the Court and prosecutor shall review the written notice to determine whether the victim has asserted the right that may be at issue
 - ▶ If your VSP gives you a form from the victim, make a copy for your file and for the defense and file the original with the Court

Crime Victim Rights

- ▶ There may be cases in which the victim's name does not appear in the public court record (child victim, sexual assault victim, etc.)
 - ▶ Victim can sign initials only on the form
 - ▶ File signed form under seal and keep an unsigned notice with appropriate rights checked in the public court file & given to the defendant
 - ▶ Prosecutor can sign on behalf of the victim & keep the signed form from the victim in the file
 - ▶ If defense objects, argue that the purpose of the written notice is to inform the Court and parties of the rights the victim is asserting & this can be accomplished even if initials or prosecutor signs
- ▶ Motion to Exclude by Defense
 - ▶ A **motion to exclude** the victim from any part of the trial **must be filed at least 60 days prior** to the date set for trial & must **state with specificity** the reason exclusion is necessary to protect a constitutional right & **must contain an offer of proof**. Court must rule on this within 30 days.

Crime Victim Rights

- ▶ **Right to notice & hearing before disclosure of confidential or privileged information or records**

- ▶ **725 ILCS 120/4.5(c-5)(9)** sets out the procedure that must be followed when a defendant seeks to subpoena confidential or privileged records of a victim or when a defendant seeks to subpoena a witness to testify about privileged communications
 - ▶ **MUST** file a written motion before subpoena may be issued
 - ▶ **MUST** contain an offer of proof regarding:
 - ▶ Content
 - ▶ Relevance
 - ▶ Admissibility AND
 - ▶ Materiality
 - ▶ **MUST** give notice to the victim

- ▶ **Burden on the defense** to prove by a preponderance:

- ▶ Records are not protected by an absolute privilege AND
- ▶ Records contain relevant, admissible & material evidence not available through other witnesses or evidence
- ▶ If the defendant meets the burden of proof **ON BOTH PRONGS**, the Court issues a subpoena requiring a sealed copy of the records be delivered to the Court for an *in camera* review
- ▶ If, after reviewing the records *in camera*, the Court determines that due process requires part or all of the records be disclosed, the Court must provide copies of the portion of the records the Court intends to disclose to the prosecutor & the victim

Crime Victim Rights

- ▶ **Right to have an advocate AND other support person present at all court proceedings, including trial**
 - ▶ Recall previous definition of advocate
 - ▶ **NOTE:** the definition of advocate does not include victim witness coordinators employed by the State's Attorney's Office
 - ▶ Considered a support person if victim wishes
- ▶ Should a defense attorney subpoena a victim witness coordinator, file a motion to quash
 - ▶ Very rarely does the defense actually call the victim witness coordinator
 - ▶ The victim witness coordinator is responsible for helping the prosecutor fulfill the requirements to the victim under the constitution and statute
 - ▶ Defense must make a good faith showing that the victim witness coordinator WILL be called as a witness AND that the expected testimony would be material, admissible & not duplicative of other evidence that will be admitted at trial

Crime Victim Rights

▶ **Right to HIV/STD testing**

- ▶ Victims of criminal sexual assault, aggravated criminal sexual assault & predatory criminal sexual assault have a right to have the accused tested for any sexually transmissible disease including a test of HIV
- ▶ 720 ILCS 5/11-1.10(e)
- ▶ State's Attorney SHALL seek order from the Court to compel the accused to be tested within 48 hours of the order

- ▶ A victim may waive or forfeit a right when the victim knowingly & voluntarily decides not to exercise a right
- ▶ A victim may also waive or forfeit a right by inaction
- ▶ **ESSENTIAL** to keep a clear & accurate record of all contacts and attempted contacts with victims
 - ▶ When was Notice mailed
 - ▶ Was there a follow up call or letter to make sure victim understood what to do with the Notice
 - ▶ Was the victim informed of each court proceeding

Thoughts on Crime Victim Rights

- ▶ As prosecutors, the victims are NOT our client. However, we do have a responsibility to speak for them in court if they do not have their own attorney
 - ▶ Does this create a misperception by victims that the prosecutors are their lawyers
 - ▶ BE CLEAR to the victim that you are not their lawyer and what your role is
 - ▶ BE CLEAR to the victim that he/she has a right to hire their own lawyer
 - ▶ BE CLEAR to the victim that he/she has a right to be heard in Court
- ▶ If a victim has an attorney, what rules apply with regard to contact with that victim
 - ▶ Technically that victim is represented by counsel
 - ▶ Rule 4.2 of the Illinois Rules of Professional Conduct
 - ▶ A lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order
 - ▶ Best practice is to get written consent from the victim's attorney to speak with the victim
 - ▶ Work out with the victim's attorney how that communication should take place

More thoughts ...

- ▶ While a victim cannot veto a plea agreement, the victim does have a right to address the Court & object to the Court accepting the plea
 - ▶ Possible Court will reject the plea agreement
 - ▶ Do we have a responsibility to keep reaching out if we do not hear from a victim?
 - ▶ What steps are we taking to make sure they are getting the information/notice?
 - ▶ What steps are we taking to make sure they understand the forms?
 - ▶ What if the victim is completely non-cooperative/recanting?
- ▶ Does this create an unequal system of justice?
 - ▶ Some victims will be able to afford an attorney to assert rights, seek remedies & seek appellate relive
 - ▶ Most victims will not be able to afford their own attorney
 - ▶ This law allows the victim to have standing to assert rights, but does not make the victim a party nor does it allow for the court to appoint an attorney for the victim
 - ▶ Could there be an equal protection claim?
 - ▶ What if a victim makes a pro se request for appointed counsel to see that the victim's Illinois constitutionally granted rights are guaranteed?

Bail Reform

- ▶ As of January, all charges are divided into Category A or Category B offenses
- ▶ It seems currently that all child victim cases should be Category A Offenses
 - ▶ 725 ILCS 5/102-7.1
- ▶ There is a presumption that defendant's should be released from custody on bail
- ▶ There is a presumption that any conditions of release imposed shall be non-monetary in nature and
 - ▶ The Court shall impose the least restrictive conditions to reasonably assure the defendant will show up for court
 - ▶ The Court shall consider the defendant's socio-economic circumstance when setting conditions of release or setting bail
 - ▶ 725 ILCS 5/110-5(a-5)
 - ▶ How does this impact victim rights

At Trial – tips for the advocate

- ▶ The prosecutor will be stressed
 - ▶ Brownies help
- ▶ Make sure you have a copy of the trial plan/witness order
- ▶ Make sure you know who is allowed in the courtroom
- ▶ Make sure witnesses know courtroom dress & etiquette
- ▶ Make sure you have the witness ready to come in the courtroom when the time comes to testify
- ▶ Make sure you know if the witness is free to leave after testifying or if they have to stay
- ▶ The prosecutor may have been ordered not to speak to the victim after the victim testifies
- ▶ At the end of each day, ask the prosecutor what if anything is needed for the next day
- ▶ Find out if victims are allowed in the courtroom for arguments

Tips continued

- ▶ Prosecutors are often superstitious
 - ▶ No pen
 - ▶ No calendar
 - ▶ No talking about sentencing
- ▶ If necessary, run interference between victim family and prosecutor at stressful times
- ▶ After the trial (assuming a guilty verdict), get going on victim impact asap
 - ▶ Help victim/family through the process
 - ▶ A strong victim impact statement is essential
- ▶ After the trial (days or so later), talk to the prosecutor about what worked and didn't and how you can work together better