



Town of Lexington

Police Department

Subject: Victim/Witness Assistance	
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By Order of: Mark J. Corr, Chief of Police	

Policy & Procedure

55B

The Municipal Police Institute, Inc. (MPI) is a private, nonprofit charitable affiliate of the Massachusetts Chief's of Police Association. MPI provides training and model policies and procedures for police agencies. This policy is an edited version of MPI Policy 4.04, "Victim/Witness Assistance."

GENERAL CONSIDERATIONS AND GUIDELINES

Police departments have traditionally been concerned with apprehending and prosecuting offenders, sometimes overlooking victim or witness needs until such time as they are required to appear in court. This oversight can be disheartening to citizen/victims and their families and may result in what officers may perceive to be a lack of cooperation.

This policy is designed to afford victims and witnesses with an appropriate level of attention, whereby their concerns and needs are addressed, fostering a better relationship between the police and the citizens served. This will help to ensure successful prosecutions.

It is the policy of the Lexington Police Department that:

1. All employees of the Department treat any victim or witness of a crime with fairness, compassion and dignity; and
2. The Department shall work in partnership with the District Attorney's Office and its Victim/Witness Assistance Program; and any other authorized victim/witness advocacy group.

PROCEDURE

- A. Summary of Victim Bill of Rights [55.1.1]
1. **GENERALLY:** In 1984, the Massachusetts Victim Bill of Rights, Massachusetts General Law, Chapter 258B, was enacted into law, creating, at that time, the most comprehensive rights for victims of crime in any state in the United States. The bill applies to victims of crimes or, if a victim is deceased, to family members. Portions of the bill apply to witnesses of crimes as well. Except where noted, the rights are provided by the prosecutor.
 2. **VICTIM RIGHTS:** Victims of crime have the right to information and assistance regarding:
 - a. Their rights in the criminal process:ⁱ
 - i. How a case progresses through the criminal justice system;
 - ii. What the victim's role is in the process;
 - iii. What the system may expect from the victim; and
 - iv. Why the system requires this.
 - b. Level of protection available and ability to receive protection from police, from harm and threats of harm, for cooperating with police and prosecution.ⁱⁱ
 - c. Right to request confidentiality in the criminal justice system from the court.ⁱⁱⁱ [55.1.3(b)]
 - d. Being present at all court proceedings.^{iv}
 - e. Allowing one family member of a victim of homicide to possess a photo of the victim in the courtroom, with certain restrictions.^v
 - f. A secure waiting room, to the extent available, apart from the defendant, defendant's friends, family, witnesses and counsel.^{vi}
 - g. Timely notification of changes in the schedule of court proceedings.^{vii}
 - h. Right to confer with the prosecutor before:^{viii}
 - i. The commencement of the trial;
 - ii. Any hearing on motions by the defense to obtain psychiatric or other confidential records;

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- iii. Any act by the Commonwealth terminating the prosecution;
and
- iv. Submission of proposed sentence recommendations to the court.

- i. Upon request, periodic appraisal of significant developments in the case.^{ix}
- j. Prompt disposition of the case.^x
- k. Conferring with the probation officer prior to the filing of a full pre-sentence report.^{xi}
- l. Victim Impact Statement: the opportunity to inform the court, orally or in writing, of the impact of the crime.^{xii}
- m. Being informed of the final disposition of the case, conditions of probation and contact information for the probation officer, if any, assigned to the defendant.^{xiii}
- n. Being informed regarding the defendant's parole eligibility and status in the criminal justice system.^{xiv}
- o. Notification rights and certification process to obtain, from the custodial facility, prior notice of release from custody, movement to a less secure facility, or prompt notification of escape.^{xv}
- p. Victim of Violent Crime Compensation.^{xvi}
- q. Financial Assistance and other social services, and how to apply for them.^{xvii}
- r. Restitution, documenting the loss and a payment schedule from the Probation Department.^{xviii}
- s. Right to pursue a civil action.^{xix}
- t. Freedom from employer sanctions for being absent from work to testify after receiving a subpoena.^{xx}
- u. Witness fees.^{xxi}
- v. Employer and creditor intercession services.^{xxii}
- w. Prompt return of property from the court, prosecutor or police, within ten days, if not contraband, or evidence for prosecution.
^{xxiii}

3. WITNESS RIGHTS: Witnesses of crimes have the following rights pursuant to General Law Chapter 258B:

- a. Timely notification of changes in the schedule of court proceedings.^{xxiv}
- b. Prompt disposition of the case.^{xxv}
- c. To be free from employer sanctions for being absent from work to testify after receiving a subpoena.^{xxvi}
- d. Information and assistance regarding:
 - i. Level of protection available and ability to receive protection from police, from harm and threats of harm, for cooperating with police and prosecution.^{xxvii}
 - ii. Right to request confidentiality in the criminal justice system from the court.^{xxviii} **[55.1.3(b)]**
- e. A secure waiting room, to the extent available, apart from the defendant, defendant's friends, family, witnesses and counsel.^{xxix}
- f. Witness fees.^{xxx}
- g. Employer and creditor intercession services.^{xxxi}
- h. Submitting or declining an interview with defense counsel, except when responding to lawful process.^{xxxii}

B. Police Department Role **[55.1.3(a)]**

- 1. POLICE LIAISON: It shall be the responsibility of the Police Prosecutor to:
 - a. Act as liaison between the police department and the victims and witnesses of crime, as well as the District Attorney's Office, regarding victim and witness rights;
 - b. Administer and coordinate the role of the police department in victim and witness assistance services;
 - c. Ensure that records and files of victims and witnesses are held in confidential files, subject to release only under the requirements of Massachusetts Public Records Law – Chapter 4, Section 7(26); and **[55.1.3(b)]**

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- d. Advise the Assistant District Attorney of the need to have a victim/witness advocate from the Victim/Witness Service Bureau of the Court assigned to the case and to maintain contact with the court advocate during the course of events which follow.
2. The Family Services Detective shall provide but is not limited to the following services:
 - a. Increase Victims understanding and participation in the criminal Justice system.
 - b. Provide victims of crime with a measure of safety and security by assisting in crime victim impact statements, protection orders, address confidentiality and case status.
 - c. Follow up on restraining order services.
3. Services Provided **[55.2.1(a)]**
 - a. 24 Hour Access to Victim/Witness Services
 - i. A victim or witness of a crime may call the police department at any time for twenty-four hour information/referral purposes. **[55.2.1(a)]**
 - ii. When a dispatcher is contacted by a victim or witness for assistance or services beyond the scope of those the police provide, [s]he shall refer to the manuals or online resources that are available in order to obtain the names and telephone numbers of agencies within the area that can provide the needed services. This may also include using the Town of Lexington Human Resources Manual, which is available in Dispatch and on the Town of Lexington Web site. **[55.2.1(b)]**
 - iii. For incidents involving domestic violence, see Department policy **41E-Domestic Violence**.
 - b. Status of Suspect/Arrestee: Upon the request of a victim or witness, or when, in the opinion of the reporting officer or supervisor, a victim or witness should be notified, officers who arrest a suspect for the commission of the crime shall notify the victim or witnesses on the following: **[55.2.5]**
 - i. An arrest being made;
 - ii. The charges being brought against the arrestee; and

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- iii. The arrestee's status (out on bail or incarcerated). This is extremely important to victims of certain crimes such as Domestic Violence and other person on person crimes.
- c. Preliminary Investigations: Patrol officers and detectives conducting preliminary investigations shall be prepared to render assistance, this may include advising about any of the following:
 - i. Provide information to victim/witness regarding services available through the police department, such as medical attention and referrals for counseling. **[55.2.3(a)]**
 - ii. Advise that additional resources are available through the Middlesex District Attorney's Office, such as victim advocacy and financial assistance. **[55.2.3(a)]**
 - iii. Advise the victim/witness on procedures to follow should the suspect, companions of suspect, or family of suspect, intimidate the victim/witness. **[55.2.3(b)]**
 - iv. Inform victim/witness of the case number assigned to the complaint and the steps that will follow the preliminary investigation. **[55.2.3(c)]**
 - v. Provide victim/witness with a business card or telephone number to call should the victim or witness have additional information to report or wish to check on the status of the investigation. **[55.2.3(d)]**
 - vi. Officers assigned to domestic violence cases shall give the victim a copy of the notice of domestic violence rights form. The rights shall be provided in the victim's native language whenever possible. ^{xxxiii}
- d. Follow-Up Investigations: Detectives or patrol officers assigned to conduct the follow-up investigation shall be prepared to offer the victim or witness assistance during the course of their involvement with the case.
 - i. If the impact of the crime has been unusually severe and has resulted in providing victim or witness assistance beyond the standard, the investigator shall, within twenty-four hours of initial contact, check with the victim or witness to determine if his/her needs are being met. A second contact shall be made within ten days. **[55.2.4(a)]**
 - ii. The investigator shall explain to the victim or witness the procedures involved in the prosecution of the case and his/her role in that process. **[55.2.4(b)]**
 - iii. If feasible, investigators shall schedule all line-ups, interviews or other required appearances of the victim or witness at such person's convenience and, if necessary, provide

transportation to and from the site of such appearance.

[55.2.4(c)]

- iv. Whenever possible, the investigator shall arrange for the prompt return of the property of the victim or witness as permitted by law or rule of evidence. Property may be held if it is: **[55.2.4(d)]**

- (a) Contraband;
- (b) Evidence needed for prosecution; or
- (c) Property with ownership in dispute.
- (d) For further information, see department policy **83B-Evidence and Property Control**.

4. Threats and Intimidation **[55.2.2]**

a. Evaluating Threats

- i. In the event that a police officer becomes aware that a victim of or a witness to a crime has been threatened or intimidated by the suspect or suspect's friends, family, attorney or other associates:

- (a) The case officer shall be notified.
- (b) The officer shall consider the nature of the threat and potential for its being acted upon.
- (c) If, in the opinion of the investigating officer or supervisor, the threat appears credible, it should be further investigated.
- (d) Appropriate action should be taken.

- ii. If, in the opinion of the investigating officer or supervisor, there exists an express specific, credible reason for fearing intimidation or further intimidation, appropriate action should be taken.

b. Statutes Addressing Threats and Intimidation of Victims or Witnesses:

- (a) M.G.L. c. 268, §13B; Intimidation of Witnesses. A felony.
- (b) M.G.L. c. 209A, § 7; Abuse Prevention Orders: A misdemeanor with statutory right to arrest.
- (c) M.G.L. c. 275, §2; Threat to Commit a Crime: Misdemeanor, no statutory right of arrest.
- (d) M.G.L. c. 265.43; Stalking: Felony.

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- c. Police Response: Police response should be appropriate given the circumstances known at the time and may include:
 - i. Immediate arrest for appropriate charge;
 - ii. Application for an arrest warrant;
 - iii. Summons (may request an expedited hearing date);
 - iv. Show cause hearing; and
 - v. Conferring with the Middlesex District Attorney's Office regarding appropriate action, including:
 - (a) Arrest or prosecution of appropriate person(s);
 - (b) Security for victim or witness; and
 - (c) Relocation of victim or witness.
 - vi. In cases of an immediate, credible threat, a supervisor may confer with the Detective Commander regarding emergency measures to provide protection for the victim or witness.
 - vii. In the event that a victim or witness is located outside of the Department's jurisdiction, the agency having jurisdiction where the victim or witness is located should be notified.
- 5. Services provided, Other Than Police Department [55.2.1(B)]: Additional victim and witness services are available from sources other the Department.
 - a. Middlesex District Attorney's Office (see Victim Bill Of Rights in this policy).
 - b. Town of Lexington Human Services Department,
 - c. Domestic Violence Service Network (DVSN)-Concord
 - d. Advocates Crisis Intervention Services- Lexington
- 6. Training of Department Personnel
 - a. Upon hiring, Employees shall be trained in regard to Department and other programs and procedures designed to offer assistance to victims and witnesses of a crime, as specified in this policy.
 - b. Training documentation shall be maintained in the Central Records office in the training file.

ⁱ M.G.L. c. 258C, § 3(a).

ⁱⁱ M.G.L. c. 258C, §3(d).

ⁱⁱⁱ M.G.L. c. 258C, §3(h).

^{iv}M.G.L. c. 258C, §3(b).

- v M.G.L. c. 258C, §3(v).
- vi M.G.L. c. 258C, §3(i).
- vii M.G.L. c. 258C, §3(c).
- viii M.G.L. c. 258C, §3(g).
- ix M.G.L. c. 258C, §3(a).
- x M.G.L. c. 258C, §3(f).
- xi M.G.L. c. 258C, §3(n).
- xii M.G.L. c. 258C, § 3(p).
- xiii M.G.L. c. 258C, §3(q).
- xiv M.G.L. c. 258C, §3(s).
- xv M.G.L. c. 258C, §3(t).
- xvi Chapter 258C.
- xvii M.G.L. c. 258C, §3(e).
- xviii M.G.L. c. 258C, §3(o).
- xix M.G.L. c. 258C, §3(u).
- xx M.G.L. c. 258C, §3(l).
- xxi M.G.L. c. 258C, §3(j).
- xxii M.G.L. c. 258C, §3(k).
- xxiii M.G.L. c. 258C, § 3(r).
- xxiv M.G.L. c. 258C, §3(c).
- xxv M.G.L. c. 258C, §3(f).
- xxvi M.G.L. c. 258C, §3(l).
- xxvii M.G.L. c. 258C, §3(d).
- xxviii M.G.L. c. 258C, §3(h).
- xxix M.G.L. c. 258C, §3(i).
- xxx M.G.L. c. 258C, §3(j).
- xxxi M.G.L. c. 258C, §3(k).
- xxxii M.G.L. c. 258C, §3(m).
- xxxiii M.G.L. c. 209A, §6.