

**Thierjer, Lisa (JUS)**

**From:** Thierjer, Lisa (JUS)  
**Sent:** Feb 06, 2008 8:58 AM  
**To:** \*WPG124 - Pros - Wpg Crown (JUS); \*WPG124 - Pros - Prov Crown (JUS)  
**Subject:** Victim Services/VBR/HTA Fatality Cases

***Sent on behalf of Senior Management:***

Victim Services has updated their procedures for dealing with **HTA fatality cases** that are sent in for Crown Opinion.

Please be reminded that HTA fatalities are covered by the Victims Bill of Rights.

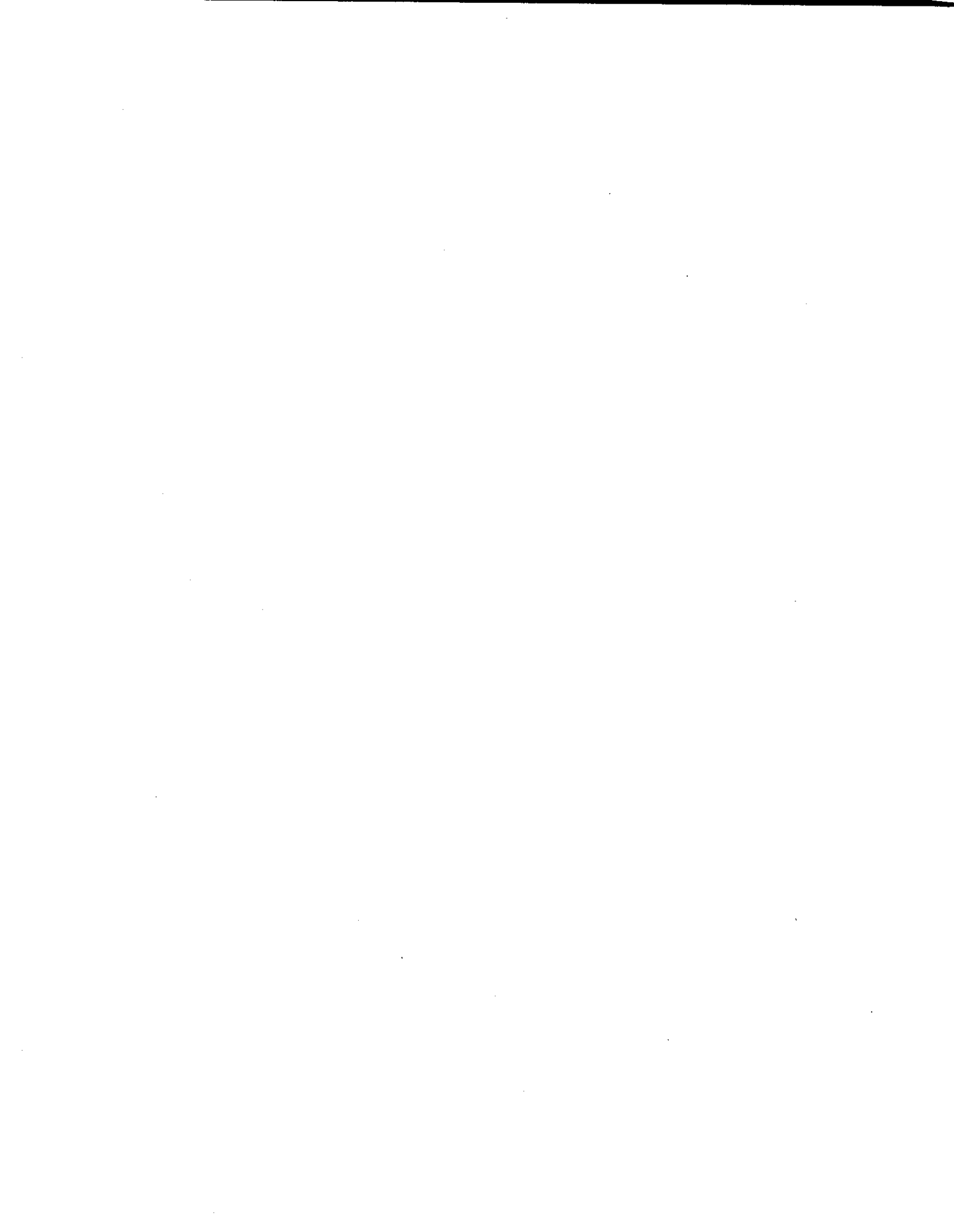
When these files are opened in PRISM and the VS office notified, the assigned Victim Services worker will contact the assigned Crown Attorney via e-mail or attach a note in PRISM. This will allow you to know who to contact to advise of your opinion. Further, the VS worker can assist should you wish to make arrangements to meet with the victim's family.

The Winnipeg Police Service Victim Services staff may or may not have contact with the victim's family. Our VS workers will be in touch with the WPS VS to ensure that families are informed of the status of the case.

For Regional matters, the closer working relationships between the Justice Victim Services Workers and the RCMP and BPS mean that the pre-charge contact usually occurs in a more direct manner.

However, as in all VBR matters, the information from the assigned Crown Attorney is critical. Please ensure that PRISM is updated appropriately and that communication with the assigned VS worker occurs as necessary.

Thank you.



**Thierjer, Lisa (JUS)**

**From:** Thierjer, Lisa (JUS)  
**Sent:** Dec 19, 2007 11:36 AM  
**To:** \*WPG124 - Pros - Wpg Crown (JUS)  
**Cc:** \*WPG124 - Pros - Wpg Support Staff (JUS)  
**Subject:** Sent on behalf of Jacqueline St. Hill

**NOTICE TO ALL WINNIPEG PROSECUTIONS**

Manitoba Justice Victim Services Branch currently provides specialized support to all victims eligible under the Victims Bill of Rights, as well as child sexual abuse victims and complainants in domestic violence cases. In addition, support services are available for adult victims of sexual assault and other serious matters should the Crown request such assistance.

There are however, cases where the complainant/victim may have needs that represent a challenge for the assigned Crown beyond the nature of the offence. Examples would be those with mental health concerns, elderly victims, recent immigrants who may have language and cultural barriers to understanding and participating in the court process and; child victims of non-sexual offences. While some of these types of complainants come into the system with a community support system in place, others do not. Either way, it would be of assistance to the Crown to have a Justice Victim Services person assigned to assist with any referrals for specialized attention and support.

To that end, starting January 2, 2008, we will be participating in a demonstration project with Victim Services to determine the extent to which there is a need for this type of specialized support for victims. To date, much of the information is anecdotal with tales of our staff essentially being drawn into the lives of some of these people in a way that really hampers the ability to focus on the prosecution. The initial focus of the project is Winnipeg Prosecutions cases.

By the end of June 2008, we hope to have some sense of the actual need for this targeted service.

If you have a case that falls within this description, please contact Ms. Lesley McCorrister at 945-2303. If you are unable to reach her feel free to contact Suzanne Gervais, Director of Victim Services at 945-4589.

She can determine the potential for assistance. This may mean collaboration with existing support that the victim has in place, a referral to a community agency or her own involvement in ensuring that the victim's needs are met in a way that is mindful of the Crown's role.

Please do not feel that you have to manage these challenging situations yourself.

If you have any questions, concerns or ideas about this initiative, please contact Jacqueline St. Hill.

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**Thierjer, Lisa (JUS)**

**From:** Dyck, Monica (JUS)  
**Sent:** Apr 24, 2007 1:06 PM  
**To:** \*WPG124 - Pros - Wpg Support Staff (JUS); \*WPG124 - Pros - Wpg Crown (JUS)  
**Subject:** RE: Victims' Rights Registration forms

Hello all:

This is a reminder to all that, should you receive a Victims' Rights Registration form, that these ought to be forwarded to Darcie Wadelius or myself at your earliest opportunity.

If you are not familiar with these forms, here is a link to it: <http://www.gov.mb.ca/justice/victims/pdf/guidelines.pdf>

It's really important that we get these as soon as is possible, so that we can register the victim and begin to provide service as we are required to do.

Thanks everyone:

Monica

Monica Dyck  
Crime Victim Services Worker  
Victim Rights Unit  
510-405 Broadway  
Winnipeg, MB R3C 3L6  
Phone: (204) 945-0200  
Fax: (204) 948-2776  
E-mail: [Monica.Dyck@gov.mb.ca](mailto:Monica.Dyck@gov.mb.ca)

Please note my e-mail address has changed, effective Jan. 8/07, to [Monica.Dyck@gov.mb.ca](mailto:Monica.Dyck@gov.mb.ca).

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**Thierjer, Lisa (JUS)**

**From:** Padoba, Tammy (JUS)  
**Sent:** Apr 11, 2007 3:20 PM  
**To:** \*WPG124 - Pros - Wpg Crown (JUS); \*WPG124 - Pros - Prov Crown (JUS)  
**Subject:** RE: Victims Bill of Rights — Counsel retained by Victims

**This message is sent on behalf of Senior Management.**

The Victims Bill of Rights sets out the obligations on Prosecutions Division to provide specific rights relating to information and consultation for victims of certain offences. (The offences to which the VBR applies are all set out in regulation).

There have been some rare instances where the victim (or in the case of a deceased victim, the family) has retained counsel to act for them.

The retention of counsel by the victim/victim's family does not mean that the Crown obligation in the VBR is met by merely communicating with counsel. Prosecutions and Victim Services will continue communication with the properly registered victim unless there is an express "de-registration" through the Victim Services Program. Even in those circumstances our policy may require communication with the victim.

As for counsel participation in meetings with the Crown, we cannot prohibit such attendance, but would encourage you to ensure that counsel makes it clear at any meeting exactly what role they expect to play. Victims may retain counsel for different reasons. If counsel has been retained just to make sure that there is contact with our office, they may realize that counsel is not necessary. If there are other motivations, e.g. a civil suit, then it is important to be aware of that at the earliest opportunity. Equally, the Crown should make clear to the victim and counsel what role counsel **cannot** play. For example it should be explicitly stated to the victim that we will not communicate through counsel to provide information or consultation. Nor can their counsel play any role in directing the prosecution of the matter.

In some cases, the involvement of counsel can be helpful in ensuring that the victim understands some of the legal considerations around Crown decision-making.

Should you be in a situation where counsel is acting and you require assistance with the appropriate approach, please do not hesitate to arrange a discussion with the assigned victim's worker and your Director.

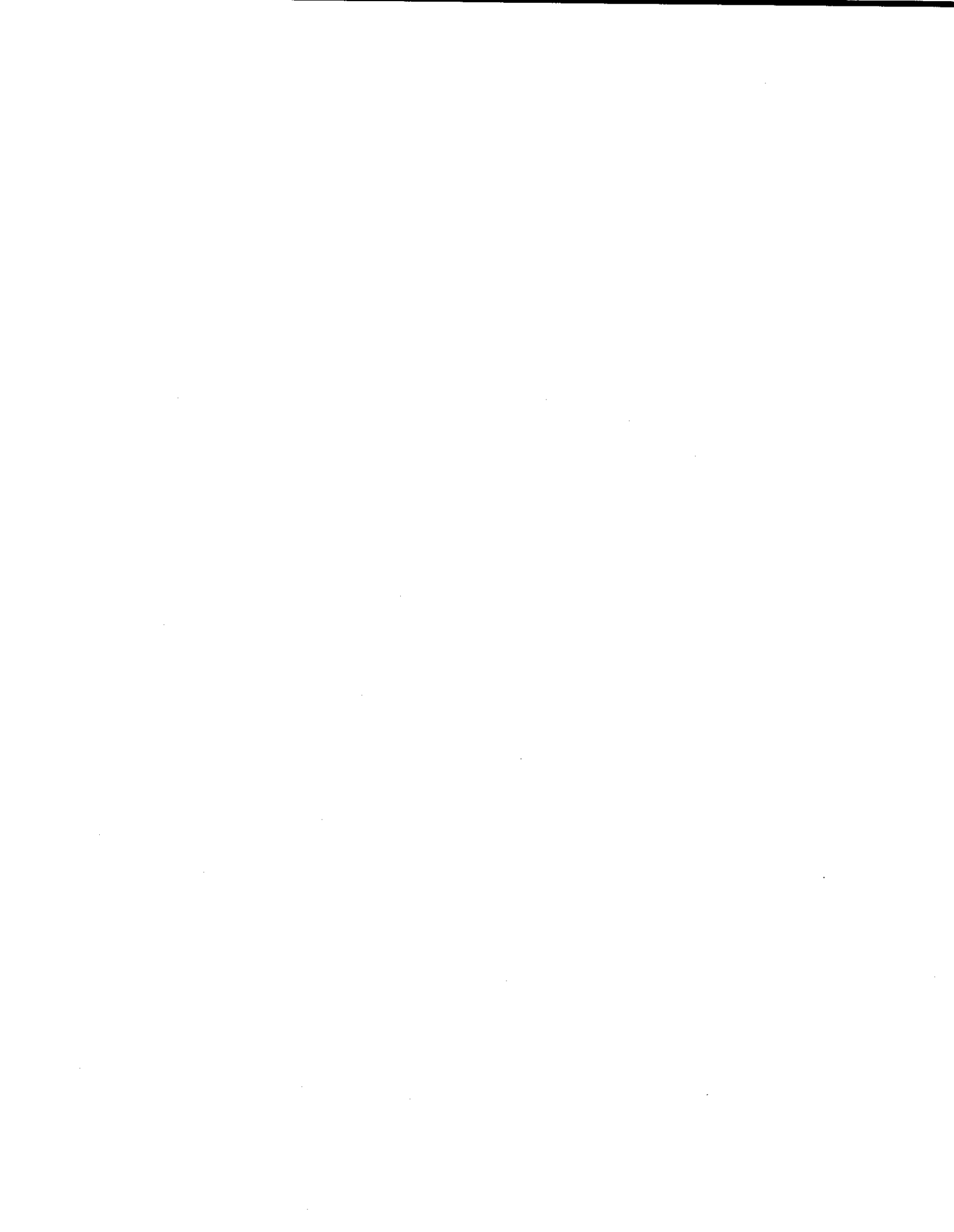
**Tammy Padoba**

Assistant to the  
Assistant Deputy Attorney General  
Manitoba Justice  
Prosecutions Services  
510 - 405 Broadway  
Winnipeg MB R3C 3L6

Phone: (204) 945-2874  
Fax: (204) 948-2392  
Email: [Tammy.Padoba@gov.mb.ca](mailto:Tammy.Padoba@gov.mb.ca)

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**Thierjer, Lisa (JUS)**

**From:** Padoba, Tammy (JUS)  
**Sent:** Mar 02, 2006 2:10 PM  
**To:** \*WPG124 - Pros - Wpg Crown (JUS); \*WPG124 - Pros - Prov Crown (JUS)  
**Subject:** RE: Victims Policy  
**Attachments:** Victims Policy.doc

There have been some changes to the Victims Policy and I have enclosed a copy for your information. Please note that I have contacted Linda Grant who will update the Crown Policy Manual on the Intranet shortly.

*Tammy Padoba*

Assistant to the  
Assistant Deputy Attorney General  
Manitoba Justice  
Prosecutions  
510 - 405 Broadway  
Winnipeg MB R3C 3L6

Phone: (204) 945-2874  
Fax: (204) 948-2392

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**POLICY STATEMENT:**

At all stages of criminal and quasi-criminal proceedings, Crown Attorneys should be mindful of and sensitive to the needs and wishes of victims.

In implementing this policy, the following guidelines apply:

**Offering Support to Victims**

When a matter is set for preliminary hearing or trial, the Crown Attorney should speak to the victim (and other witnesses) in order to prepare them for the court hearing. This will include a review of the testimony expected of the victim (or witness). The nature of the case will determine the extent of preparation required.

Throughout Manitoba, child witnesses should be referred to the Crime Victim Services, Child Victim Services Program. To the extent possible, the Crown Attorney must make efforts to meet with the child (and his/her guardian) in advance of the court date in all cases involving child victims.

Whenever possible, victims of sexual offences should be afforded the opportunity to meet with the Crown Attorney in advance of the preliminary hearing/trial to prepare for the case.

Victims of domestic violence should be referred to the Crime Victim Services, Domestic Violence Program, where available and should be offered information about protective orders available through the courts.

In cases involving fatalities, Prosecutions recognizes the emotional trauma of such cases for relatives of the victim. The Crown Attorney should make him/herself available to meet with the family and deal with family members in a manner appropriate to the circumstances. This is best done working with the assigned Crime Victim Services Worker.

In some situations, victims of crime require that efforts be undertaken to ensure their privacy and safety. The Crown Attorney should seek an order under s. 486(3) of the *Code* in all cases involving sexual offences, unless the victim specifically requests



otherwise. In cases where the safety of the victim or victim's family is at issue, the Crown Attorney should advise the victim to contact the appropriate police authorities, or do so on their behalf. In extreme cases, the victim (or witness) may have to be referred to the Witness Protection Program. The appropriate Director should be contacted in such instances.

Sometimes, the victim's need for support goes beyond what a Crown Attorney is able to provide. In such cases, the Crown Attorney should provide a level of support consistent with the directions provided above and the seriousness of the charge. In order for the victim to receive the additional support requested, the victim should be referred to a Crime Victim Services Worker and, if possible, to other agencies (e.g. Child & Family Services, Mental Health).

### **Consultation with Victims**

Under s. 14 of *The Victims' Bill of Rights* (VBR), victims are entitled to consult with the Crown Attorney on certain decisions relating to the prosecution of the case. "Consultation" does not mean that the victim is entitled to direct the prosecution or make the final decision with respect to how the case is handled. *The Victims' Bill of Rights* does not impose restraints on the Crown Attorney's ability to perform his or her function as an officer of the court. However, the VBR does recognize that victims of crime have a legitimate interest in seeing that their concerns are acknowledged by the Crown. Crown Attorneys are required to listen to and to seriously consider any information the victim has to offer.

The VBR applies to cases involving the following offences:

- (i) parent or guardian procuring sexual activity, s.170
- (ii) corrupting children, s.172(1)
- (iii) computer luring of children, s.172.1
- (iv) living off avails of a prostitute under 18, s.212(2) or (2.1)
- (v) procuring a prostitute under 18, s.212(4)
- (vi) criminal negligence causing death, s. 220
- (vii) murder, s. 229 to 231
- (viii) manslaughter, s. 236
- (ix) infanticide, s. 233
- (x) attempted murder, s.239
- (xi) discharging a firearm with intent, s. 244,
- (xii) dangerous driving causing death, s. 249(4)
- (xiii) impaired driving causing death, s. 255(3)
- (xiv) criminal harassment, s. 264
- (xv) aggravated assault, s. 268
- (xvi) assault peace officer, s. 270(1)(a)
- (xvii) sexual assault with a weapon, s. 272(1)(a)
- (xviii) aggravated sexual assault, s. 273





- (xix) cases in which death results from an offence under s. 54 or 56 of *The Workplace Health and Safety Act* and
- (xx) offences under *The Highway Traffic Act* where a death results.

If the victim is registered, then consultation is required on decisions relating to:

- (i) a decision on whether to lay a charge;
- (ii) the use of alternative measures;
- (iii) the staying of a charge
- (iv) an application for release from custody;
- (v) any agreement relating to a disposition of the charge;
- (vi) if the accused is found guilty, any position taken by the Crown in respect of sentencing; and
- (vii) a decision on whether to appeal the verdict, or the position of the Crown respecting any appeal by the accused.

The Crime Victim Services Workers may be in a position to assist the Crown in carrying out this consultation function. If the Crown enters his/her position regarding the issue in PRISM, the CVS Worker can pass the Crown's position on to the victim. If the victim accepts the Crown's position, there will not be a need for further consultation between the Crown and the victim on that point and the Crown will have satisfied his/her obligation. However, if the Crown does not enter his/her position in PRISM or if the victim disagrees with the position taken by the Crown, it may be necessary for the Crown to speak to the victim directly to explain the position taken and to consider any input offered by the victim.

### **Providing Information to Victims**

Section 13 VBR requires that registered victims must be advised of the following:

- (i) the charge laid against the accused;
- (ii) the name, address and telephone number of the Crime Victim Services Worker or Crown Attorney conducting the case;
- (iii) if the accused is in custody pending trial, how the victim may comment on:
  - a) whether the accused should be detained, or
  - b) if the accused is released, whether he or she should be subject to any conditions;
- (iv) the date, time and place of a proceeding that relates to the prosecution and is likely to affect the outcome, including a preliminary hearing, trial and sentencing hearing;
- (v) the right to file a Victim Impact Statement (see also policy on Victim Impact Statements 2:VIC:2);
- (iv) the possibility that a person who is found guilty could be ordered by the court to make restitution to the victim;



- (v) the date, time and place of any court application by the Crown Attorney to designate a convicted person as a dangerous offender under subsection 753(1) of the *Criminal Code*;
- (vi) the outcome of the prosecution; and
- (vii) any appeal of the result of the prosecution.

The Crime Victim Services Workers employed within the Criminal Justice Division are expected to provide this information to victims.

**Besides the charges to which the VBR applies, there are other serious cases where the victim should be kept informed of important developments in the case. Essentially, the general philosophy of the VBR applies in many other cases. These will include cases where the charge is:**

- (i) a sexual offence other than aggravated sexual assault or sexual assault with a weapon (both of those are covered by the VBR);
- (ii) child-abuse cases;
- (iii) home invasion cases;
- (iv) "sensitive cases" (see Sensitive Cases Policy 2:REP:1) where there is an identifiable victim;
- (v) faint hope applications under Part XXI .1 of the *Criminal Code*;
- (vi) a case where the Crown intends to make an application to have the offender declared a dangerous or long-term offender under Part XXIV of the *Criminal Code*.
- (vi) any other case that the Crown Attorney considers to be serious – e.g., a vicious assault or a serious domestic violence case;
- (vii) cases not falling in the above categories where the victim requests to be kept informed of developments.

In these cases, the Crown Attorney should attempt to advise the victim as to:

- (i) the outcome of the bail hearing and, if the accused is released, the conditions of release;
- (ii) changes in bail status or conditions of release (e.g. if bail is revoked because the accused is involved in additional offences);
- (iii) the date, time and place of the preliminary hearing and the trial;
- (iv) any decision regarding plea arrangements, including a decision to enter a stay of proceedings;
- (v) the outcome of the trial;
- (vi) the right to file a Victim Impact Statement (see policy on Victim Impact Statements 2:VIC:2);
- (vi) if the accused is found guilty, the date, time and place of the sentencing hearing; and
- (vii) the sentence imposed.



During the course of providing this information, the victim may express a position on some aspect of the prosecution (e.g. conditions the victim would like to see imposed as part of a probation order). While the Crown Attorney is not required or expected to solicit this input, it should be considered in those cases where it is offered. In many cases, this information is ultimately of assistance. A Crown Attorney who is aware of the ramifications of the crime on the victim is in a position to provide the court with the most complete information.

Since the VBR does not currently apply to these offences, it will be Crown Attorneys, rather than Crime Victim Services Workers, who must supply this information to victims.

### **Victim Requests that Proceedings be Stayed**

There may be times when a victim expresses a wish that the charges be stayed. In conducting a prosecution, Crown Attorneys must always balance the need to adduce evidence from the victim with sensitivity to the victim's wishes. Generally, if the victim has important evidence to provide, a prosecution should be continued and the victim should be required to testify notwithstanding the victim's request that the charges be stayed. This is especially so if the offence is of some gravity or there is reason to believe that the victim's request has been motivated by intimidation or fear. Generally, the more serious the offence, the greater the need for the Crown Attorney to proceed.

However, there will be situations where the Crown Attorney should comply with the victim's request for a stay of proceedings. In extreme cases, where testifying would actually be harmful to the emotional well being of the victim, the victim should not be compelled to testify and it may be necessary to enter a stay of proceedings on the charge. Such a situation might occur in the case of a sexual offence against a child where psychological damage to the child would result if the child were forced to testify.

A more common situation is one where a recalcitrant victim has adopted a different version of events than that contained in his/her statement to the police and has requested that charges be "dropped". If no other evidence is available and the victim maintains the inconsistent version of events, it may be necessary to enter a stay of proceedings. The court's time should not be wasted by the Crown simply proving the prior inconsistent statement. This procedure leaves the Crown with a witness who is incapable of belief and whose evidence, including the prior statement, will not support a conviction.

There may be other cases (usually of a minor nature) where it would not be contrary to the public interest to comply with the victim's wishes and to stay charges. For example, where an accused with no record has written a bad cheque but has paid restitution and the victim requests that the charge be stayed.

Where the Crown is concerned that the victim may have a change of heart regarding the entering of a stay of proceedings, the Crown Attorney should consider having the victim provide a written request that the charge be stayed. Such a practice is recommended where the charge involved is serious, especially in the case of a sexual offence.



See also: Domestic Violence 2:DOM:1.

### **Victim Requests to Not Testify**

Requests by victims that they be excused from testifying arise in a variety of situations. The response of the Crown Attorney to such a request should be determined by the nature of the evidence to be provided by the victim. Where the victim's evidence concerns a matter that is central to the Crown's case, the issues raised are similar to those that arise when the victim requests that a stay of proceedings be entered. Therefore, Crown Attorneys should refer to the guidelines contained in the previous heading "Victim Requests that Proceedings be Stayed".

Where the evidence of the victim concerns a matter that is unlikely to be in dispute, the Crown Attorney should make efforts to obtain an agreement from defence counsel regarding the evidence in order to avoid having the victim testify. For example, the Crown should endeavour to have property owners excused from attending preliminary hearings and trials where their potential testimony relates only to the fact of ownership. There may also be cases where the charge is provable by other evidence. In such cases, it may be possible to excuse the witness without weakening the Crown's case.

### **Victims with Special Communication Needs**

Certain victims (and witnesses) may have difficulty understanding and/or being understood by officials in the criminal justice system. Special communication needs may arise because of age, level of literacy or fluency in English, mental disability or physical disability. Crown Attorneys should attempt to provide victims with special communication needs with as much assistance as is required. Extra time or explanations may have to be given to these witnesses in order to prepare them for court. When testifying in court, victims with special communication needs should be provided with whatever special assistance is necessary for the victim to be understood (e.g. special equipment, testifying behind a screen, etc.).

One of the more common special communication needs has to do with interpreters. In Winnipeg, support staff should be directed to call the Language Bank of Winnipeg (943-9158) to arrange for an interpreter. When the need for an interpreter is not discovered until the morning of court, the Victim/Witness Assistance program may be able to locate an interpreter on short notice. In rural areas, quality interpreters are much more difficult to locate and no formal interpretation services exist. Support staff sometimes maintain an informal list of interpreters.

On occasion, the need for sign language interpreters arises. In both Winnipeg and in rural areas, support staff should be directed to contact Independent Interpreter Referral Service (204-301 Nassau Street, phone: 475-6332) to make arrangements. In rural areas, these arrangements will likely include travel and hotel arrangements for the signing interpreters as well.





### **Victims With Other Special Needs**

A variety of resources are available (in Winnipeg, at least) to assist victims with special needs:

*Seniors with Special Needs:* In Winnipeg, the Senior's Directorate may be able to provide assistance. No comparable service exists in rural areas. However, the regional Crime Victim Services Worker could be consulted.

*Transportation Difficulties:* In Winnipeg, victims (and other witnesses) should be told to arrange for parking for the full day rather than using parking meters. If a receipt for parking is produced, the Victim Witness Assistance Program will reimburse the victim (witness) for parking costs. The Victim Witness Assistance Program can also assist with local bus fare and taxi fares if arrangements are made in advance. For victims (or witnesses) who have physical disabilities that make attendance at court difficult, Crown support staff should contact Vital Transit Services (633-2022). In rural areas, transportation arrangements can present serious difficulties. Support staff are often called upon to make all transportation, accommodation and meal arrangements for witnesses.

*Daycare:* In Winnipeg, the Victim/Witness Assistance Program can arrange for daycare, but it must be notified in advance and the victim (or witness) must attend the daycare with the child(ren) involved on at least one occasion before the child(ren) is/are left alone at the daycare on court day. Last minute daycare is not available. In rural areas, daycare is not available and victims (or witnesses) must make their own arrangements.

In other situations where a victim presents with some special need, Crown Attorneys could consult with the Crime Victim Services Worker.

### **Witness Expenses**

Victims and other witnesses may be entitled to recover travel and other expenses related to attending court. In Winnipeg, Crown Attorneys should direct the witness to the Victim/Witness Assistance Program. In rural areas, victims should be directed to Crown support staff who will perform this function.

### **Restitution**

Crown Counsel should seek an order of restitution on behalf of the victim where there is a realistic possibility that the accused is or will be able to pay. In appropriate cases, the victim should also be informed of the possibility of obtaining an order of compensation for loss or damage to property. Crown Counsel should inform the victim of the kind of supporting material (e.g., invoices) required for an application for restitution or compensation.



**See also:** Sentencing – Restitution 4:SEN:1.6

**Compensation for Injuries**

Crown Counsel should advise victims of the possibility of obtaining compensation for crime-related injuries under Part V of *The Victims' Rights Act*.

**Exhibits**

Victims often experience inconvenience when exhibits (particularly stolen property) are seized by police and held for an extended period of time as the charge proceeds through court. Crown Attorneys should encourage the police to photograph the exhibit and return it to the victim when the use of the photograph will not impair the prosecution of the case.

**Sentencing in Cases Involving Serious Injuries**

Prior to the sentencing hearing, the Crown Attorney must obtain an update as to the medical circumstances of the victim.

**RATIONALE:**

Crown Attorneys have an obligation to ensure that the concerns of victims of crime are appropriately addressed within the criminal justice system.

**Related Policies:**

- Domestic Violence 2:DOM:1
- Sensitive Cases Policy 2:REP:1
- Sentencing – Restitution 4:SEN:1.6
- Victim Impact Statements 2:VIC:2



**Thierjer, Lisa (JUS)**

**From:** Jackman, Heather (JUS)  
**Sent:** Nov 14, 2005 9:47 AM  
**To:** \*WPG124 - Pros - Prov Crown (JUS); \*WPG124 - Pros - Wpg Crown (JUS)  
**Subject:** VBR AND PRISM USE  
**Importance:** High  
**Attachments:** Crowns Memo - VBR and PRISM (SMP)(June 23 2005) (3).doc

Please find attached a Memo together with attachments therein from Senior Management Prosecutions, for your review.

Thank you.

**Heather Jackman**  
Administrative Assistant  
Justice - Prosecutions Division  
510-405 Broadway  
Winnipeg, MB R3C 3L6

Phone: (204) 945-2016  
Fax: (204) 945-1260  
E-mail: [hjackman@gov.mb.ca](mailto:hjackman@gov.mb.ca)

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**THE VICTIMS' BILL OF RIGHTS**

**Auto-Register Charges Effective August 31, 2001**

<b>CHARGE</b>	<b>SECTION</b>
Murder	229 235(1) Dec 12/88
Murder – First Degree	231
Murder – Second Degree	231 (7)
Manslaughter	234
<i>Cause Death by Criminal Negligence</i>	220
Infanticide	233
Dangerous Operation Causing Death	249 (4)
Operation while Impaired Causing Death	255 (3)
Sexual Assault w/Weapon, Threats to 3 <sup>rd</sup> Party, Cause Bodily Harm	272 (1) 272(2) Jan 1/96
Aggravated Sexual Assault	273
Workplace Fatalities	
Attempt Murder (Domestic) (effective Jan 31/02)	239 (Domestic)
Aggravated Assault (Domestic) (effective Jan 31/02)	268(1) (Domestic) 268(2) Dec 12/88
Discharging a Firearm w/Intent (Domestic) (effective Jan 31/02)	244 (Domestic)

**Eligible Charges Effective January 31, 2002**

<b>CHARGE</b>	<b>SECTION</b>
Attempt Murder	239
Aggravated Assault	268(1)
Assaulting a Peace Officer	270(1)
Discharging a Firearm w/Intent	244

**Eligible Charges Effective December 1, 2003**

<b>CHARGE</b>	<b>SECTION</b>
Parent or Guardian Procuring Sexual Activity	170
Corrupting Children	172(1)
Computer Luring of Children	172.1
Living off Avails of Prostitute Under 18	212(2) 212 (2.1)
Procuring Prostitute Under 18	212(4)

**Eligible Charges Effective April 26, 2005**

<b>CHARGE</b>	<b>SECTION</b>
Criminal Harassment	264
Offences under the Highway Traffic Act that relate to the death of a person.	







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## Memorandum

DATE: March 17, 2008

TO: All Crown Attorneys -  
Province Wide

FROM: Senior Management Prosecutions  
510 - 405 Broadway

PHONE:  
FAX:

SUBJECT: VICTIMS BILL OF RIGHTS AND PRISM USE

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Previous memos have referred to the importance of use of PRISM when handling Victims Bill of Rights designated offences. The entire Crime Victim Service Worker structure is dependent on accurate information about case status being readily available to the Crime Victim Service Worker.

Further, the obligations on the Crown under the VBR can only be met if use is made of the system that has been established to support both the Crown and the Crime Victim Service Worker (see Sections 12 through 16 of the VBR).

Unfortunately, the Crime Victim Service Workers still find that information is lacking about their cases. This makes their role difficult to fulfill as they have to rely on Prosecutions work in order to do their job.

Designated offences are set out in *The Victims' Bill of Rights Designated Offence Regulation 138/2001*, and its amendments: *M.R. 10/2002, 194/2003 and 68/2005*.

A list of offences is attached for reference.

**When dealing with a VBR offence, PRISM use is required. Crown Attorneys must ensure that:**

- file status (court dates/reasons for remands, etc.) is updated in PRISM;
- notes in PRISM are made concerning the progress of the case at relevant points (e.g. bail, plea discussions, sentencing);
- notes are made in PRISM whenever the Crown has direct contact with a victim (whether they are registered or not).

The need for accurate and timely communication of information is paramount. Many Crowns already make the necessary notes, but leave this on the file rather than put them in PRISM. This is a small adjustment to put them into the system instead of on the paper file. There should be no need for a duplication of work.

In addition, the Crime Victim Service Workers have their own file tracking and information scheme within PRISM. This can be accessed by the Crown and is exceedingly helpful. Within the domestic context, it can provide insight into the victim's position on bail or disposition as well as information as to further offences such as continuing breaches. It may also include information that the victim is recanting. In general, the Crown will know what information the victim may already have been provided and can therefore ensure consistency of message.

Use of PRISM not only assists the Crime Victim Services Workers, but Prosecutions staff.



The CVSW file within PRISM should be checked whenever dealing with a VBR designated offence, particularly as the Crown is held accountable by the liability provision in the Victims Bill of Rights (s. 34). Failure to check represents a risk to the Crown that critical information will be missed and leaves the Crown open to being viewed as not proceeding with due diligence. There is no reason to decline to access information that may affect the case, when that information is literally at your fingertips.

Access to the CVSW file within PRISM can be made as follows:

1. Click on the VR Individual tabpage. If a VR file exists there will be a VR file number indicated along with the VR Individual or Victim's name (as below).
2. Select the row of the VR file that you wish to open.
3. Double click to open it or right click and select "Open VR File".

File # PR2005OCT1401198 ACCUSED MR

File Info | Incidents | Court Dates | Involvement | File Activity | File Location | Charges | Police Remarks | VR Individuals | Disclosure

**VR Individuals**

7777 Police Agency Reston R Incident From Date JAN 01, 2003 Incident To Date

TRIBE, VICTORIA ANNE Date of Birth [REDACTED]

No VR Files associated to this victim in this incident.

VR File Number	VR Individual Name	Date of Birth	Registered	VIS	Liaison
VR2005OCT103797	VICTIM, NEW	APR 28, 1957	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Open VR File

- Edit Victim Impact Statement
- Add Communication Log
- Add Consultation Log
- Add VR File Note
- Display Rights History
- Create Letter
- File Activity Report

When the VR file is opened you are able to see who the CVR Worker assigned. To view communication logs and VR file notes click on the File Activity tabpage. (Note: Communication logs and VR file notes **DO NOT** display in the Accused file. They only display in the VR file.)



**VR Individual**

Name: VICTIM NEW  
 Date of Birth: [REDACTED] Gender: Female Relationship:

**Victim**  
 Name: VICTIM NEW  
 Date of Birth: [REDACTED] Victim in In

File Info | Charges | **File Activity** | File Location

**Activity Log**

Create Date	Created By	Activity Type Description
OCT 31, 2005	MCINTYRE, CECILLE	Communication
OCT 17, 2005	MCINTYRE, CECILLE	Victim Impact Statement
OCT 17, 2005	MCINTYRE, CECILLE	Crown Assignment A
OCT 17, 2005	MCINTYRE, CECILLE	Court Proceeding A

Reason: Meeting  
 Direction:  Inbound  
 Initiator: MCINTYRE, CE  
 Receiver: VICTIM, NEW

Note  
 Initial meeting with client.

Anyone requiring assistance with PRISM should contact the PRISM Help Desk at 945-1755 or e-mail them at PRISM@gov.mb.ca.

Please direct any questions or concerns to your Supervising Senior Crown.

cc: Michael Horn  
 Marilyn Morrice



**Thierjer, Lisa (JUS)**

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**From:** Jules, Michele (JUS)  
**Sent:** May 28, 2005 8:03 AM  
**To:** \*WPG124 - Pros - Wpg Crown(JUS); \*WPG124 - Pros - Wpg Support Staff(JUS)  
**Subject:** FW: Victims' Bill of Rights

Please see below, I just clued in that I only sent this to the regional offices.

Michele Jules  
Crown Attorney  
Family Violence Unit  
NOTICE:

The information contained in this transmission is confidential and intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, you are hereby notified that any distribution, copying, disclosure and use of, or reliance on, the contents of this transmission is strictly prohibited. If you have received this communications in error, please notify the sender immediately by telephone and permanently delete the original message, attachments and all copies.

-----Original Message-----

**From:** Jules, Michele (JUS)  
**Sent:** May 13, 2005 2:03 PM  
**To:** \*WPG124 - Pros - Prov Crown(JUS); \*WPG124 - Pros - Prov Support Staff(JUS)  
**Cc:** Dyck, Monica (JUS); McCorrister, Lesley G (JUS)  
**Subject:** Victims' Bill of Rights

Please be advised that on April 26th in addition to **HTA fatality cases** being included under the VBR, **criminal harassment** was also added as a designated offence. Please ensure the victim service provider in your area is aware and involved in any case you have that involves a designated offence.

Michele Jules  
Crown Attorney  
Family Violence Unit  
NOTICE:

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**Ireton, Colleen (JUS)**

**From:** Ireton, Colleen (JUS)  
**Sent:** May 18, 2006 12:37 PM  
**To:** Slough, Don (JUS); St. Hill, Jacqueline (JUS)  
**Cc:** Kaplan, Brian R (JUS); Lawlor, Gregg (JUS); 'Martin Minuk'  
**Subject:** Meeting respecting the Zenk matter  
**Importance:** High

The following is sent on behalf of Brian Kaplan:

A meeting was held this morning with Marty Minuk, Gregg Lawlor and I to discuss the issues that have been brought to our attention by Mr. Minuk.

Mr. Minuk gave Gregg a detailed background of the matter and advised him of the letter from the East St. Paul Police Service dated April 25/06 (you have been provided with a copy of the Apr 25/06 letter).

Marty requested the meeting this morning as he is greatly concerned about the matter going ahead at this point in time and wanted some direction as to how he felt an adjournment should be addressed. Marty also noted to us that the family issues in the case are a huge factor and should be considered as well. (The parents of the deceased victim are now "at war" with the son-in-law.)

Gregg's advice was as follows:

In a letter to defence (Richard Wolson) Marty should indicate:

Recent issues have come to light respecting the investigation of the accident. Time is needed to properly go ahead with the case and because of the ongoing investigation by an outside policing agency into the case, the Crown feels the matter must be adjourned.

Marty will draft a letter that he will be sending to both Gregg and I to review this afternoon.

Colleen Ireton  
Admin Assistant  
MB Justice - Prosecutions  
510 - 405 Broadway  
Winnipeg MB R3C 3L6  
Telephone: 945-1854  
Fax: 945-1260

NOTICE: The information contained in this transmission is confidential and intended only for the use of the individual or entity to whom it is addressed. If you

3401.21

May 18 2006





DATE: July 13, 2007

TO: Don Slough  
Assistant Deputy Attorney General  
Prosecutions Service  
510 - 405 Broadway

FROM: Brian Kaplan, Director  
Regional Prosecutions & Legal Education  
Prosecutions Service  
510 - 405 Broadway  
Winnipeg, MB R3C 3L6  
PHONE NO: 945-2860

SUBJECT: DEREK GRANT HARVEY-ZENK

**Backgrounder:**

This is the East St. Paul case which was assigned to Marty Minuk 2 years ago. You will recall all the issues dealing with the investigation and evidentiary problems.

I received a call from Marty Thursday evening (July 12) at home. The matter is set for preliminary hearing starting July 16<sup>th</sup>. Richard Wolson Q.C. is counsel.

Marty informed me that he was touching base to indicate he believed Zenk was prepared to plead guilty to Drive Dangerous Cause Death for an agreed upon joint recommendation for a conditional sentence. I said initially I wanted to sleep on it and arranged to meet him early Friday morning so he could provide all the background and his opinion. We spent approximately an hour wherein it was his view that this should be accepted based on the available evidence, exigencies of the police investigation and the provable facts.

The Friday meeting allowed a better understanding of outside counsel's position and his recommendation that the offer should be accepted. I advised him I wanted to run the background by a couple of senior crowns for their opinion.

I gathered who I could in the form of Zane Tessler and John Peden. All of us agreed it was the best that one could hope for in the particular circumstances of this case.

Marty was advised to deal with the husband of the deceased in explaining all circumstances at his arranged meeting Friday morning. Marty has also informed the parents of the deceased who I understand do not see eye-to-eye with their son-in-law (husband of deceased) about many issues.

Defence counsel has informed Marty that the offer is made and the intent is to have a plea entered Monday or Tuesday (the 16<sup>th</sup>/17<sup>th</sup>). Sentencing could take place Tuesday or put over for a report to be requested by defence. Defence is to meet with the accused and family Sunday (15<sup>th</sup>) afternoon to finalize this aspect.

My understanding from Marty is that, due to the nature of the case and the position of the accused (former WPS) that the Chief Judge has agreed to handle the plea and sentence.



As of 2:30 p.m. Friday (13<sup>th</sup>) afternoon, I am awaiting a CIA draft from Marty so that Colleen can prepare it to send across the street. A copy will be attached to this memorandum.

My replacement next week, Mr. Peden, will be the contact conversant with all of the matter in <sup>my</sup> absence. If you feel you need to speak to me feel free to call me (██████████ home) or (██████████-cell).



Brian Kaplan





## File Note For File Number PR2005MAR104256

<u>Accused</u>	<u>DOB</u>	<u>FPS</u>	<u>IRN</u>
HARVEY-ZENK, DEREK GRANT	Feb 21, 1974		
<u>Incident Number</u>	<u>Police Agency</u>	<u>Incident From Date</u>	<u>Incident To Date</u>
05/568	East St Paul Police Services	FEB 25, 2005	

**FILE NOTE CREATED** Created by DUPUIS, RACHELLE on Mar 04, 2005

### Media Interest

City constable charged in fatal collision  
 Mother of three killed; officer put on paid leave  
 Winnipeg Free Press  
 Wed Mar 2 2005  
 By Bruce Owen

A Winnipeg Police Service officer was charged yesterday with impaired driving causing death after a crash last Friday killed a mother of three.

Const. Derek Harvey-Zenk, 31, was also charged with refusing a breathalyser test, dangerous operation of a motor vehicle causing death and criminal negligence causing death.

Crystal Taman, 40, was killed when her 1991 Chevrolet Sprint convertible was rear-ended by a 1995 Dodge Dakota pickup truck as she waited at a red light at Lagimodiere Boulevard and the north Perimeter Highway.

Winnipeg police Chief Jack Ewatski said yesterday he has put Harvey-Zenk on paid administrative leave until the charges, which were laid by East St. Paul police, are reviewed. Harvey-Zenk was off duty when the crash occurred.

Police sources said that before the crash, a group of officers from District 3 station on Hartford Avenue in West Kildonan had gone for drinks at a north Winnipeg bar after work at around midnight. Police call such get-togethers "shifters."

"They're frequently here," an employee, who did not want to be named, said yesterday.

"They're good patrons. They never cause problems. They never over-drink. If anything, they've been really fun with us."

It's believed Harvey-Zenk, a police officer of three years, and other officers left the bar for an unknown location in the East St. Paul area.

Harvey-Zenk was returning to the city alone on Highway 59 at about 7 a.m. when the crash happened.

Const. Bob Johnson confirmed the police service's professional standards unit, at the request of East St. Paul police, is investigating events leading up to the fatal crash to see if other officers had been with Harvey-Zenk in the early-morning hours before the collision.

Coincidentally, the wife of a senior Winnipeg Police Service duty inspector was slightly injured in the crash when the force of the collision sent Taman's car slamming into hers. She suffered minor whiplash-type injuries.

Her police-inspector husband refused to comment yesterday.

Robert Taman, Crystal's husband, said yesterday he could not comment on the police internal investigation.

"We need our time to mourn. We need to get through tomorrow," he said, referring to his wife's funeral at 2 p.m. today at Crofo Funeral Chapel.

Loren Schinkel, president of the Winnipeg Police Association, said the union will get involved in Harvey-Zenk's defence only if his employment is affected. "It's a tragedy all the way around for everyone," Schinkel said.

Ewatski has said in the past that an officer convicted of an offence should not be a member of the Winnipeg Police Service.

If convicted as charged, Harvey-Zenk faces a maximum penalty of life in prison.

The charges against him come a week after Const. William Anastacio was convicted of assaulting an intoxicated man in the Main Street Project on Aug. 8, 2002. Anastacio was fined \$350 and is appealing.

Ewatski has put him on desk duty, where he has no contact with the public, pending the outcome of his case. Anastacio and Harvey-Zenk worked together as uniform general patrol officers in the city's North End.

The internal police investigation of last Friday's crash comes as the Supreme Court of Canada is set to hear a case in which it will be argued that people who let house guests drink too much alcohol should be held financially responsible for harm their impaired guests may cause.

The case involves a 23-year-old Ottawa woman who was paralysed in a head-on crash involving a drunk driver on Jan. 1, 1999. One person died and two others were seriously injured.

Mothers Against Drunk Driving will ask the Supreme Court for intervener status in the case, as it believes the courts should impose a "duty of care" on hosts of social events.

The Taman family has asked that instead of flowers, donations be sent to MADD in Crystal's memory.

3401.24







## File Note For File Number PR2005MAR104256

The last Winnipeg police officer involved in a fatal drunk-driving case was Const. Robert Lesuk in 1997. He was later granted an absolute discharge that erased an earlier dangerous-driving conviction in a motorcycle accident that killed 26-year-old Koreen Wood. He was fined \$500 for refusing a breathalyser test and is still employed by the Winnipeg Police Service.

bruce.owen@freepress.mb.ca

Wed, March 2, 2005

The Winnipeg Sun

Cop faces charges

Accused of drunk driving causing death

By CARY CASTAGNA, POLICE REPORTER

The off-duty Winnipeg police officer involved in a three-vehicle crash last Friday that killed a 40-year-old mother is charged with impaired driving causing death. Derek Harvey-Zenk, 31, also faces charges for refusing a breathalyser, dangerous operation of a motor vehicle causing death and criminal negligence causing death.

Robert Taman, the grieving husband of Crystal Ann Taman, 40, declined to comment yesterday, after East St. Paul police officially laid the charges.

"I want to get through the next few days and devote my time to my family and I may have something to say after that period," he told The Sun.

### ADMINISTRATIVE LEAVE

Harvey-Zenk, a five-year member of the Winnipeg Police Service, was placed on paid administrative leave yesterday, Chief Jack Ewatski said in a statement issued through spokesman Const. Bob Johnson.

Ewatski didn't return calls yesterday.

Harvey-Zenk, who also goes by Harvey-Morden-Zenk, had been working as a constable out of the District 3 police station at 260 Hartford Ave., in West Kildonan.

He is a former correctional officer who last worked at Headingley Jail in 2000 before becoming a cop.

Sources said Harvey-Zenk, who is married, is an avid runner and plays on a hockey team made up of corrections officers.

A former co-worker said he wasn't a heavy drinker.

"It's disappointing an individual in that position has made a bad decision like that, if it turns out the allegations are all true. It's such an avoidable thing," local Mothers Against Drunk Driving president Rod Sudbury said, offering condolences to the Taman family on behalf of his organization.

Sudbury, a retired 28-year veteran of the Winnipeg Police Service, said anyone -- whether they're a "police officer or John Q. Citizen" -- should know they're flirting with disaster if they drink and drive.

One cop said the Winnipeg Police Service has been rocked by the allegations against Harvey-Zenk. Another cop described the situation as ugly. "And it's going to get uglier," the officer told The Sun.

East St. Paul police Chief Harry Bakema said although the case involved a fellow police officer, it was handled like any other investigation.

"It doesn't matter who it is you're dealing with. Everybody has to be treated the same," said Bakema, who met with the Taman family prior to issuing a media release early yesterday afternoon. East St. Paul police are continuing to investigate. Dental assistant Crystal Ann Taman was stopped at a red light in the southbound lane of Highway 59 north of the Perimeter Highway about 7 a.m. Friday, when her 1991 Chevrolet Sprint convertible was rear-ended by a 1995 Dodge Dakota truck. She was pronounced dead in hospital.

In the chain-reaction crash, Taman's convertible rammed into the rear of a 2000 Hyundai, which was driven by the wife of a Winnipeg police staff sergeant, sources said.

The officer's wife was treated for injuries.

Due to Harvey-Zenk's position, the case will be handled by outside Crown attorney Marty Minuk, a justice official said.



**CONTROVERSIAL ISSUES ALERT  
(July 16, 2007)**

<b>Division/Branch Issue</b>	<b>Brief Description</b>	<b>Recommended response by Minister</b>
<p>Prosecutions</p>	<p><b>DEREK GRANT HARVEY-ZENK</b>            This incident occurred February 25, 2005. Crystal Taman was killed when her vehicle was rear-ended by Derek Harvey-Zenk. Harvey-Zenk was charged March 1, 2005 with impaired driving causing death; refusing a breathalyser test, dangerous operation of a motor vehicle causing death and criminal negligence causing death.</p> <p>Mr. Zenk, through his counsel, Richard Wolson, has advised that Mr. Zenk is prepared to plead guilty to the indictable offence of Dangerous Driving Cause Death.</p> <p>The case includes witnesses / members from the WPS, scene witnesses, ambulance and East St. Paul police personnel, and an RCMP Traffic Accident Reconstruction expert. The opinion of the Crown (Marty Minuk) is that resolving this matter by taking the plea as offered is a very good resolution. The evidence in support of the charge of both the Drive Impaired and Refusal of Breathalyzer is very very weak.</p> <p>By reason of the shoddy work of the East St. Paul Police the charge of refuse breathalyzer is bound to fail.</p>	<p>This is for information purposes only.</p>



	<p>The WPS members do not describe Zenk as being impaired.</p> <p>In speaking to the RCMP expert his assessment is that the plea may in fact be more than what might happened had the matter gone to trial.</p> <p>What is left factually is speed within the posted limit, no evidence of impairment, no evidence of erratic driving before the collision.</p> <p>The main issue will become sentencing because the prevailing authorities on the facts admissible support a conditional sentence. The Crown is of the opinion that this is the appropriate sentence in this case.</p> <p>It is unclear if the family understands all of the complexities and legal issues but they will be spoken to again.</p> <p>A plea will be entered on Tuesday, July 17, 2007 at 9:00 a.m. before Chief Provincial Court Judge R. Wyant. As such today will be a brief appearance with little said on the record regarding this development in the prosecution.</p> <p>It is expected the case will be remanded after the plea to set up a sentencing hearing.</p>	
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