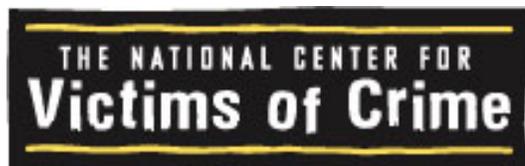


Cold Case Victim Notification

Sample Policy



All copyright laws apply to the proper use and crediting of these materials. This chart is supported by Grant No. 2011-TA-AX-K048 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in these materials are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.

SAMPLE POLICY FOR COLD CASE VICTIM NOTIFICATION

1. Upon the written request of the victim*, the investigating law enforcement agency shall provide an update at least annually to the victim concerning the status of a cold case.
2. If the status of a cold case changes, including instances where a case is reopened to resume investigation or a crime lab has notified law enforcement of a DNA database “hit,” the investigator shall determine whether the victim requested notification. If the victim requested notification, notice shall be provided unless it would unreasonably interfere with the investigation.
 - a. If the file does not indicate a victim’s preference regarding notification, the investigator shall provide notification of the change in status, unless such disclosure would unreasonably interfere with the investigation. The investigator shall also offer the victim the opportunity to request future notifications and to express a notification preference, whether notification by mail, telephone, or email.** The victim shall also be offered the option to designate a third party, including a victim support organization or attorney, to receive notice on the victim’s behalf.
 - b. Prior to notification and communication with the victim, the investigator shall consult with the victim advocate. Notification to the victim shall be coordinated with the victim advocate to permit the advocate to be present if possible.
 - c. Any discussion of cold case investigation and best methods of notification should start with the understanding that contacting a victim about renewed activity in a sexual assault case can cause psychological trauma to the victim and victim’s family, particularly where the victim has not received regular updates over time.
 - d. Notification should be done in a timely manner to avoid the victim first learning about the new case activity from other sources, including the media. However, contacting a victim too early can potentially interfere with the investigation. Safety of the victim must also be considered when deciding when to notify the victim. When and how to notify the victim is a team decision, involving at a minimum the investigator and a victim advocate.
 - e. Each case will have a variety of factors that should be considered when determining the best manner for initial notification. Methods for notification include in-person, telephone, letter, or email notification, or notification to the victim’s designated third party.* Make every attempt to notify a victim in a time, place, and manner that provides as much privacy as possible. Keep in mind that some victims may not have told family members or friends about the assault or his or her past. Ensuring privacy allows

victims to choose whether or not she will reveal details of the crime or her past to others. Victim safety must also be factored in when choosing the best form of victim notification.

The following positive and negative factors of each form of notification should be weighed in considering outreach to the victim.

In-person notification

Positive factors:

- Immediate crisis intervention is possible at the time of notification.
- The victim's immediate questions can be answered, and fears about going forward with the case can potentially be allayed.
- In-person contact presents a personal approach that lays groundwork for a victim-centered relationship.

Negative factors:

- The victim may not have told family or friends about his or her past and the crime, and victim privacy can be threatened if family or friends are present during notification.
- The victim may be distrustful or even angry with law enforcement due to past experience or the delay in testing the evidence. The presence of a law enforcement representative may trigger negative reactions and may make a victim unwilling to cooperate. A victim advocate can be particularly helpful to serve as a buffer between the victim and investigator in these cases.

Telephone notification

Positive factors:

- Phone contact is more confidential than in-person notification.
- It gives victims an opportunity to call back at a time when it's convenient for them.
- The victim can choose the time and place to meet in person to receive details about the case.
- It allows the victims to gather support people before an in-person meeting with the investigator.

Negative factors:

- Phone contact may seem impersonal for such an important matter.
- Finding current telephone numbers for some victims can be very difficult.

U.S. mail notification

Positive factors:

- Notification by U.S. mail is likely to be noticed by the recipient, as opposed to email.
- It is a good option for those who, after attempts, cannot easily be reached in-person or via phone.

Negative factors:

- U.S. mail is potentially the least confidential, thus contact by letter should be a last choice. A letter may be received and opened by someone else at the victim's last known address. Therefore, the letter should be written in as generic terms as possible.
- Victims who relocate frequently may not be reachable by U.S. mail.

Email notification

Positive factors:

- Email may be the victim's primary form of communication and can be an effective way to provide ongoing notification.
- Email can more easily follow a victim who relocates (as opposed to U.S. mail or a landline telephone number).

Negative factors:

- Email can be too impersonal and, thus, should not ordinarily be used to reestablish contact after a substantial period of time.
- Because email addresses may become inactive, emails can be misdirected by spam filters, and emails can be overlooked, notice by email should request a receipt.
- If receipt of the email notification is not acknowledged, notification by other means should be attempted.

- f. In some cases, if a victim has relocated out of the area, it may be necessary to enlist the help of an agency in another jurisdiction to locate and notify a victim. In these cases:
 - i. First identify the best local person to make the notification. It is crucial to ensure that this person is experienced in sexual assault cases and understands the importance of victim sensitivity. This person will likely be a sexual assault investigator, but if one is not available, a homicide investigator might be qualified.
 - ii. Reach out to local rape crisis advocates to help determine if there is an experienced investigator they work well with.

- iii. If there is no appropriate person in the local area, telephonic contact is warranted. Determine if there was an investigator in your jurisdiction that the victim had a positive relationship with, and if so, that person should make the contact by phone. If there is no investigator in your jurisdiction with whom the victim had a positive relationship, consider having the victim advocate make the telephone contact.
- g. After notification is made, allow the victim time to process the new information. Victims often are in shock and experience a wide range of emotions at this point in time. Do not press the victim at first contact about pursuing the case.
- h. Be prepared to answer the victim's questions and provide as much information as possible about the criminal justice process, DNA and DNA databases, and the different roles of the parties involved, including the investigator, the advocates – both system and non-system based, and the prosecutor. Inform victims about what might be expected of them. Some victims will have these questions at first contact; some will not have many questions until later interviews or meetings. Ensure that the victim understands that he or she may contact the investigator or the victim advocate at any time with questions, and that the victim has contact information for both persons.
- i. As soon as possible, the victim advocate will conduct a needs assessment with the victim and will provide appropriate referrals and contact information for the local rape crisis center or other agencies that might provide support, including drug and alcohol treatment programs.
- j. Once the victim is located and notification made, schedule a time and place for the interview that is most convenient for the victim. Consider providing the victim with the option to meet someplace other than the precinct. The victim may choose to have the victim advocate (system or community-based) at the meeting.
- k. The victim advocate shall ensure that victims understands the parameters regarding the confidentiality of any information the victim shares with the advocate and confirm that the victim understands the limitations on confidentiality with the advocate.
- l. Assign a person, usually the system-based victim advocate, to ensure that the victim is afforded all his or her rights, including the right to receive notice as the case progresses, the right to referrals and assistance, the right to seek victim compensation, and other statutory rights.
- m. Maintain ongoing contact with a victim.

- i. Victims should be contacted by the investigator or the victim advocate on a regular basis to check in and provide case information. Remember to check in with the victim to see how they are doing even when there is no news to report.
 - ii. The investigator will maintain regular contact with the victim advocate to provide case information, especially any change in case status information so that it can be provided to the victim in a timely manner.
 - iii. Convey to the victim how frequently they can expect to hear from the investigator and provide alternate contact information in case the investigator cannot be reached.
 - iv. Make every effort to notify victims about case information before they learn about it from other sources, particularly the media.
- n. Ongoing advocacy services for the victim and family are the responsibility of the advocate.
- o. The investigator should be available for questions or concerns that the victim advocate feels he or she cannot address.
- p. Victims should be informed that a decision may be made not to prosecute the offender or to offer/accept a plea bargain. Victims should be notified of this decision in a timely manner and be given an opportunity to provide input.
- q. The investigator, advocate, and prosecutor should provide as much information and assistance as possible to help the victim feel supported and comfortable engaging in the criminal justice process. The decision to proceed and participate in the case ultimately lies with the victim.

*As used in this policy, "victim" shall include the direct victim of the crime, guardian of the victim, or family member of a deceased victim.

** Any final policy should conform to state law regarding the required form of notice.