

Case Assessment Tips

Obtaining the Case File

Obtaining missing documents or evidence is critical.

Items Needed for a Thorough Case Assessment

Police Reports: Review all paperwork (PPW), including police reports, evidence vouchers, photographs, etc. Ask these questions of the law enforcement agency:

- How many officers responded? Obtain their names/shields.
- What PPW exists? (Your office may have a checklist.)
- Did different units respond? Do different units fill out different reports? Were crime detection programs used (gunshot detectors, license plate readers, etc.)? If so, do reports, recordings, etc. exist?
- Did the officers take notes beyond the standard PPW?
- Did the officers take pictures and/or video?
- Did the officers have body worn cameras?
- Which PPW contains the statements of the victim(s) and witness(es)? Were those statements recorded?
- Is the case file you have missing anything?

Body Worn Cameras (BWCs): Review all BWC footage and look for:

- An offense in progress; the aftermath of an offense; the actions of victims, witnesses, and law enforcement
- Injuries, property damage, tangible evidence, witnesses
- Excited utterances, present sense impressions, and admissions

Have a full understanding of:

- How BWCs are shared with the prosecutor's office
- Whether BWCs are redacted by law enforcement prior to being shared with the prosecutor's office
- Whether the prosecutor has all footage from all locations and officers

Other Video Evidence: Review all video evidence including surveillance video footage (see BWC section). Evidence may include electronic doorbells, private security cameras, vehicle dash cams, red light cameras, license plate readers, etc.

911 Calls and Radio Transmissions: Listen to 911 calls and police radio transmissions; review transcripts. 911 calls may contain information about:

- What is occurring during the crime
- The demeanor of victims/witnesses (see BWC section)
- Descriptions of suspects

911 calls may contain excited utterances and/or present sense impressions, and radio transmissions may contain conversations between law enforcement and victims/

witnesses, information that explains the actions of law enforcement, information regarding identification procedures, descriptions of suspects, and a timeline.

Victim/Witness Evidence: Review all statements made by victims and witnesses to law enforcement and other entities (i.e. private security guards) to the extent permissible by law. If feasible in your jurisdiction, interview the victim(s) and witness(es) prior to deciding whether to file/issue charges. Review all photos and video footage. Questions to ask law enforcement about victim/witness evidence:

- Were written statements taken? Are they in the police reports?
- Did any of the victims/witnesses call 911?
- Were any victim or witness statements recorded?
- Was an identification procedure done? If so, by what officers, and with which witnesses?
- Does your police agency have access to prior law enforcement contacts with victims and/or witnesses? If so, can they legally share them with the prosecutor under confidentiality laws? Check the rules of evidence in your state to determine if a victim or witness may be impeached for having a criminal record and if you may legally obtain this information.

Identification Procedures: Review all paperwork, photographs, and audio/video recordings pertaining to identification procedures, and if feasible in your jurisdiction interview all police officers and victims/witnesses involved. Questions to ask law enforcement about identification procedures:

- Was a show-up/line-up/photo line-up done?
- Who transported the victim/witness to the show-up/line-up/photo line-up location?
- Who apprehended the youth who was the subject of the show-up/line-up/photo line-up?
- Was a photo array conducted? If so, where? By whom? Was it a "blind" procedure?
- If a line-up was conducted, was it a photo or in-person line-up? (If so, where? By whom? Was it a "blind" procedure?)
- Were pictures and audio/video taken during the line-up?
- What was said to the victim/witness prior to the photo array/line-up?
- Were line-up fillers kept separate and out of view of the victim/witness prior to the line-up?
- If a photo array or line-up was conducted, were all photos and any notes by the victim submitted?
- What was the result of the photo array/line-up?
- Did the victim/witness express any hesitation in his/her identification?



Hospital/EMS/Medical Records: These records can provide information on the extent/nature of victim injuries, statements made for diagnosis and treatment, future treatment needs, and discharge recommendations.

Photographs: Review all photographs, including those of the scene, victim, youth, and physical evidence.

Social Media: Review all social media available to you pertaining to the case, to the victim(s), to the witnesses, and to the youth(s). Evaluate whether you can obtain additional social media evidence through public searches, consent, or search warrants. Preservation letters should be sent to social media companies.

Scientific Records: Review all reports pertaining to fingerprint evidence, serology evidence, DNA evidence, etc.

Statements Made by Youth: Review all statements made by the youth, including but not limited to statements at the scene, statements during transport, and statements at the police precinct; evaluate the admissibility of each one based on the facts and the laws in your jurisdiction. Your jurisdiction may have laws requiring that a parent or attorney be contacted prior to speaking to a youth, that a statement be recorded, that a statement be taken at a specific location or type of location, or that require a youth to speak with a defense attorney before being interviewed by law enforcement.

Factual considerations regarding whether a statement was made voluntarily by a youth include but are not limited to where the statement was made, what the room looked like, how long the youth was in custody, how long the interview lasted, how many members of law enforcement participated in the interview, how the Miranda warnings were read, whether the statements were audio or video recorded, whether the youth was given food and drink, whether weapons were visible during the interview, whether promises or threats were made to the youth, and whether any force was used against the youth.

Additional Considerations During Case Assessment

Confidentiality of Records: There may be records, statements, or evidence in your case that is protected by confidentiality laws (medical records, counseling/mental health/therapy records, child welfare records, search warrant affidavits containing confidential informant information, social service records, and records containing juvenile or criminal history). It is important that you have a full understanding of the confidentiality laws in your state with respect to different types of records.

Law Enforcement Records: Many jurisdictions require prosecutors to turn over to defense counsel disciplinary records of police officers and other impeachment material.¹ You must have a full understanding of the laws in your jurisdiction and your office's policies regarding obtaining and disclosing this information.

As a juvenile court prosecutor, it is your duty to be familiar with the legal, evidentiary, and policy rules in your jurisdiction. Making an informed decision at the earliest possible time will enable you to make decisions about whether and how the case should proceed, which will fulfill your ultimate duty to seek justice.

¹ *Brady v. Maryland*, 373 US 83 (1963); *Giglio v. United States*, 405 US 150 (1972)