



# OAKLAND COUNTY SHERIFF'S OFFICE

## Policies and Procedures

	<b>NUMBER</b> 35	<b>DATE</b> February 27, 2004
<b>SUBJECT:</b>	<b>RES GESTAE WITNESS LEGISLATION</b>	<b>DISTRIBUTION</b> A, B, E & F.
<b>REFERENCE:</b>		

On July 1, 1986, Public Act 46, a new res gestae witness legislation went into effect. The Act requires investigative law enforcement agencies to provide the defendant, or defense counsel, upon request, with reasonable assistance, including investigative assistance, as may be necessary to locate and serve process upon a witness. Specifically, MCL 767.a{5} states:

The prosecuting attorney or investigative law enforcement agency shall provide to the defendant, or the defense counsel, upon request, reasonable assistance, including investigative assistance, as may be necessary to locate and serve process upon a witness. The request for assistance shall be made, in writing, by defendant or defense counsel not less than ten {10} days before the trial of the case or such other time as the court directs. If the prosecuting attorney objects to a request by the defendant on the grounds it is unreasonable, the prosecuting attorney shall file a pretrial motion before the court to hold a hearing to determine the reasonableness of the request.

The Oakland County Prosecutor's Office has adopted a policy of filing written objections to all defendant requests for investigative assistance.

### **POLICY**

It will be the policy of the Oakland County Sheriff's Office to immediately notify the Prosecutor's Office when receiving a written request from a defendant or defense counsel for assistance on locating and serving process upon a witness.

### **PROCEDURE**

#### **1.0 REPORTS**

- 1.1 Upon receiving a written request for assistance, the officer will obtain a complaint number and prepare an incident report.
- 1.2 The officer will include the date, time, and manner of receipt of the request for assistance in his/her report.

1.3 The officer will identify the defendant, case title, Prosecutor's Order Number and the charges in the report.

2.0 **NOTIFICATION OF PROSECUTOR**

2.1 The officer shall immediately telephone the Prosecutor's Office and report the request for assistance.

2.2 If the case is pending at the District Court level, the notification will be directed to the Chief of the District Court Division.

2.3 If the case is pending at the Circuit Court level, officers will direct their notification to the Assistant Prosecuting Attorney in charge of the case, if known. If the officer does not know the Prosecutor in charge of the case, he shall then notify the Chief of the Circuit Court Division.

2.4 If the case is pending at the Appellate level, notification should be directed to the Chief of the Appellate Division.

2.5 All other requests shall be transmitted to the Chief of the Warrants Division.

3.0 **APPEARANCE AT PROSECUTOR'S OFFICE**

3.1 The officer will appear before the Prosecutor within a reasonable time of the receipt of a written request for assistance.



Michael J. Bouchard  
Sheriff