

Obtaining a Letter of Apology

By Paul Francois & Enrique Garcia

You've completed your interview and the suspect has confessed his culpability in the crime. Now what? When you get to court, the defense may attempt to suppress the confession, most likely by utilizing the argument that it was coerced. One way to refute this claim as false is by demonstrating the voluntariness of the confession by obtaining a letter of apology from the suspect.

If a suspect confesses, you can usually persuade him to write an apology letter – obviously, no confession, no letter. An apology letter helps the prosecutor prove that the subject's statements and confession were voluntary. While nothing beats great evidence, a letter written voluntarily to the victim (or a witness, the District Attorney, the Judge, the Jury, etc.), refutes the coercion argument and is one more nail in the coffin for your case. Defense attorneys hate to see an apology letter included as evidence.

To obtain a letter of apology from a confessed subject, keep in mind the following:

- The purpose of the letter is NOT to acquire a detailed written confession, but to reinforce their guilt and culpability.
- An apology letter constitutes a “softer” form of a written confession and is an excellent piece of evidence.
- Sell the letter as a means of showing remorse for act(s). In other words, persuade the subject to write the letter to convince others he is truly sorry for his actions. Explain that your report will be black and white and will not contain those sorts of emotional details.
- Say to the subject: *“I'm going to give you an opportunity that I've given everyone that has sat in the same chair you're sitting, and they've all taken me up on it.”* This is a technique used by sales professionals. You're planting the seed that if “everyone” else has done this, it's a good idea for him to do it as well.
- Do not ask the subject if he *wants* to write the letter. Simply provide the subject with pen and paper, and the choice as to whom to write the letter. While you NEVER dictate, you CAN give a suspect some direction for what to write.

IMPORTANT: Please remember Officer Safety comes first. A pen or pencil is a potential deadly weapon the suspect can use against you by striking your eyes and throat quickly.

- Exit the room and allow the subject to write. The act of you leaving the room, more than anything else, demonstrates the voluntariness of the letter and his statements. This gives the prosecutor the ammunition to demonstrate voluntariness—while the subject was alone in the room, he could have written ANYTHING (or nothing at all, for that matter). The fact that he writes an incriminating statement—on his own—shows he did so of his own free will.
- If you believe the letter is not adequate because it lacks important facts about the case, you can always ask the subject to write a second letter and reference the crime by name and a few details. Remember—you must keep and introduce the first letter as evidence. Just state that you offered the suspect an opportunity to write another letter that provided the reason he/she was apologizing.
- Read (or have subject read) letter out loud and onto the audio recording. Be sure to attach the letter to the report.

These are just a few basic details of the process for obtaining letters of apology. What about subjects who are not able to write in English? Or cannot write at all? To learn more about these unique situations and other strategies for obtaining and keeping incriminating statements admissible, attend our three day Interview & Interrogation class.

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