


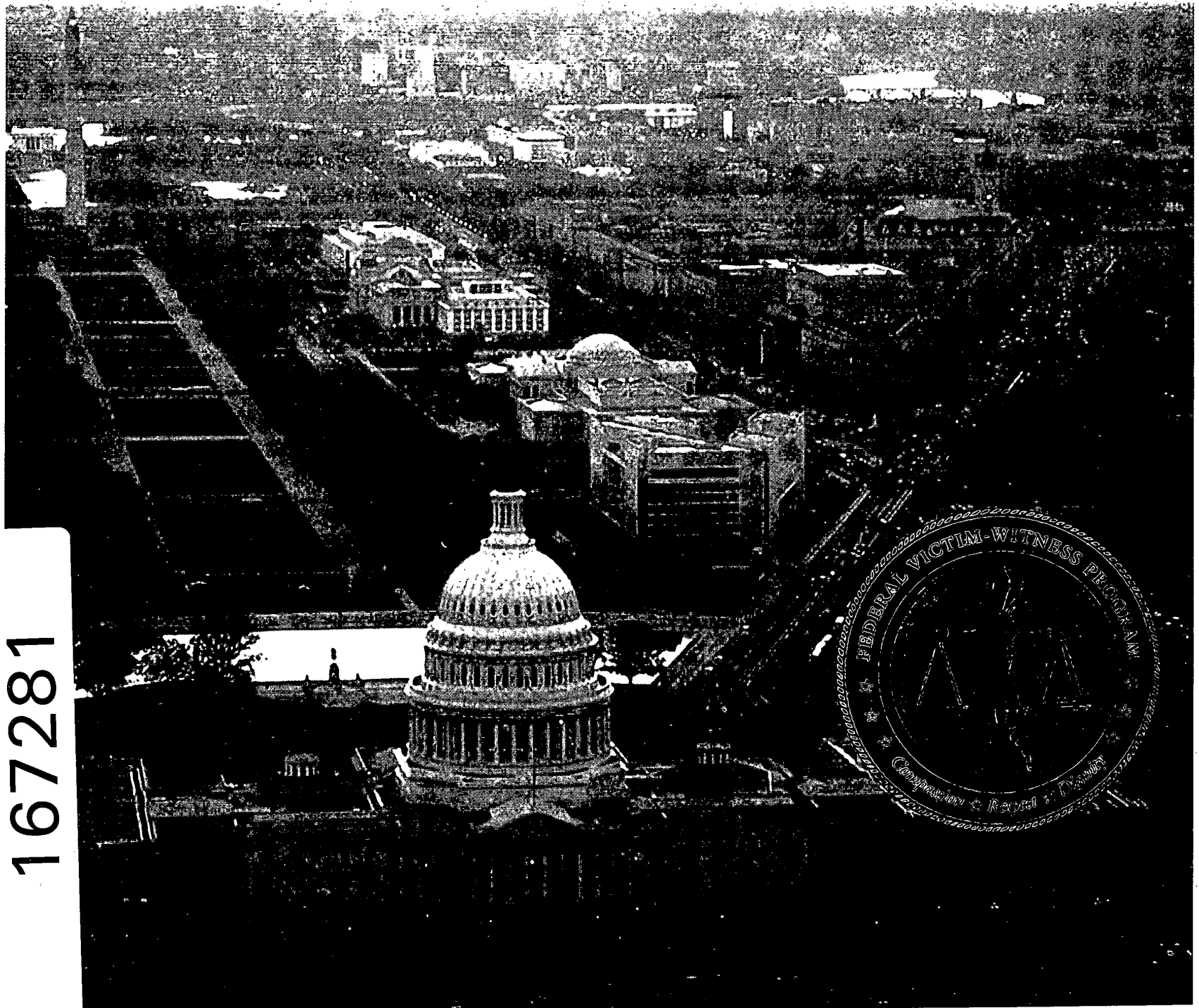
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# National Symposium on Victims of Federal Crime

February 10-14, 1997  
Washington, D.C.

Presented by the  
 NATIONAL ORGANIZATION  
FOR VICTIM ASSISTANCE

United States Department of Justice  
Office of Justice Programs  
*Office for Victims of Crime*



167281

JOIN US  
FOR  
NOVA'S 23RD ANNUAL CONFERENCE

*Yesterday Victim  
Today Survivor  
Tomorrow Advocate*

**Houston, Texas  
August 17th - 22nd**

**HOTEL INFORMATION**

**Adam's Mark Hotel  
713 ♦ 978 ♦ 7400**

**Room rates \$110 S/D/T/Q  
Includes hotel shuttle & tax**

**REGISTRATION RATES**

**TBA late February of 1997  
or check our Web page for updates  
[www.access.digex.net/~nova](http://www.access.digex.net/~nova)**

**FOR ADDITIONAL INFORMATION REGARDING:**

**Speakers  
Presenters  
Volunteering  
Conference Rates**

**PLEASE CONTACT:**

**CHRISTOPHER GREENSLADE  
DIRECTOR OF CONFERENCE PLANNING  
NOVA  
1757 Park Road NW  
Washington, DC 20010-2101  
202 ♦ 232 ♦ 6682 voice  
202 ♦ 462 ♦ 2255 fax  
email: [nova@access.digex.net](mailto:nova@access.digex.net)**



1944

# MEMORANDUM


TO: THE SECRETARY OF THE ARMY

FROM: THE CHIEF OF STAFF

1. The following information was received from the War Relocation Authority regarding the evacuation of Japanese-Americans from the West Coast. It is requested that you advise the War Relocation Authority of the Army's policy regarding the evacuation of Japanese-Americans from the West Coast.

2. The War Relocation Authority has advised that the evacuation of Japanese-Americans from the West Coast is being completed by the end of the year.

3. The War Relocation Authority has advised that the evacuation of Japanese-Americans from the West Coast is being completed by the end of the year.



**Developing Community Crisis Response Teams**

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- *Great Summer Dates • New Information*

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Washington, D.C. 20010

Office for Victims of Crime

**OVC**

*Advocating for the Fair  
Treatment of Crime Victims*

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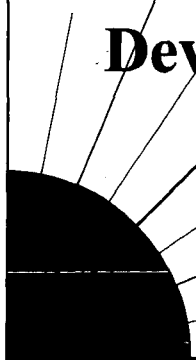
**U.S. Department of Justice**  
*Office of Justice Programs*

Office for Victims of Crime

is proud to announce

NOVA's Second Regional Training Series on

**Developing Community Crisis Response Teams**

- 
- **Longmont, Colorado**
  - **Danvers, Massachusetts**
  - **Savannah, Georgia**
  - **Indianapolis, Indiana**

**June 2-6, 1997**

**June 23-27, 1997**

**July 7-11, 1997**

**July 30-August 2, 1997**



## *The Hosts*

The Office for Victims of Crime (OVC) in the United States Department of Justice serves as the Federal government's chief advocate for America's crime victims. OVC administers grants programs designed to benefit victims, provides training for diverse professionals who work with crime victims, and develops projects to enhance victims' rights and services.

OVC also operates its own Community Crisis Response program, which enhances services to victims of violent crime in communities that have experienced major crimes or multiple victimizations. In that capacity, OVC supports the development of community-based crisis response teams, and has provided funding for this regional training series.

OVC's partner in presenting the trainings is the National Organization for Victim Assistance (NOVA). Founded in 1975, NOVA is the oldest association promoting victim rights and services in the worldwide victims' movement, and is the recognized leader in providing crisis response training. NOVA has provided training and technical assistance to hundreds of communities to help them develop local crisis response programs, and has responded directly to hundreds of communities in the aftermath of crisis.

Longmont, CO, is hosted by the Crisis Response Team Subcommittee of Longmont Violence Prevention.

Danvers, MA, is hosted by the Essex County District Attorney's Victim Witness Assistance Program.

Savannah, GA, is hosted by the Chatham County District Attorney's Victim Witness Assistance Program.

Indianapolis, IN, is hosted by the U.S. Attorney's Office for the Southern District of Indiana.

## *Who Should Attend*

The regional training series is designed for crime victim assistance specialists, but is open to others who respond to emergencies: law enforcement officers, firefighters, emergency medical personnel, school counselors, members of the religious and mental health communities, disaster responders, and community leaders.

The training is an intermediate college level course intended for those who have some education and experience in crisis intervention. Administrative and program management skills are beneficial.

Through the application process, each participant will have obtained local support for the development of a crisis response team.

## *Faculty*

The faculty are experienced NOVA trainers/practitioners and other crisis intervention pioneers familiar with implementing community crisis response teams.

## *Certificates/CEUs*

All full-time participants will receive a certificate of participation from the U.S. Department of Justice and the National Organization for Victim Assistance.

Licensed professionals seeking Continuing Education Unit credits will be able to register their attendance at the training with the American Council on Education (ACE) for \$5 per topic (16 topics maximum). Transcripts of attendance are available from ACE for a small fee.

## *Application Procedure*

Please complete and mail the attached application form to NOVA with all required attachments. Applications will be reviewed by NOVA/OVC and invitations will be issued to applicants who evidence strong personal and community commitment to the establishment and maintenance of a local community crisis response team. Every attempt will be made to invite as many applicants as possible; however, seating is limited and seats are not guaranteed. Early application is recommended.

Applications must be received by the following dates:

- Longmont, CO: May 5, 1997
- Danvers, MA: May 27, 1997
- Savannah, GA: June 9, 1997
- Indianapolis, IN: July 2, 1997

## *Training Costs and Logistics*

The normal registration fee of \$550 per person is *waived* since OVC is funding the trainings. However, participants will be responsible for personal transportation, lodging, and meal costs for the week. Each participant will receive a training manual and other materials at no additional cost.

Each participant is responsible for making his or her own hotel reservations and arrangements for ground travel. There is no requirement that participants stay at the recommended hotel; however, NOVA and the local host have ensured that the hotel offers an excellent room rate and amenities for our trainees.

## ***Preliminary Agenda\****

### ***Day One — Monday***

- 8:00 a.m. - 9:00 a.m. **Registration**  
9:00 a.m. - 10:00 a.m. **Introductions and Orientation to Course**  
10:00 a.m. - 12:30 p.m. **Nature of Catastrophe**  
Objective Time Dimensions of Crisis, Subjective Dimensions, Spatial Dimensions, Role Dimensions, Disaster Classification System and Exercise, Distinguishing Features of Community Tragedy  
12:30 p.m. - 1:30 p.m. **Lunch (On Your Own)**  
1:30 p.m. - 4:00 p.m. **Nature of Catastrophe (Continued from Morning)**  
4:00 p.m. - 6:00 p.m. **Long-Term Stress Reactions**  
Background to Common Long-Term Stress Reactions  
Post Traumatic Stress Disorder and Other Reactions

### ***Day Two — Tuesday***

- 9:00 a.m. - 10:00 a.m. **Video and Discussion: "No One Dies Alone"**  
10:00 a.m. - 12:30 p.m. **Death and Dying**  
Principles and Process of Individual and Group Death Notifications  
Confronting/Acknowledging Death: Fears and Concerns  
Dealing With Loss, Grief, Crisis, Special Attributes of Tragic Death  
12:30 p.m. - 1:30 p.m. **Lunch (On Your Own)**  
1:30 p.m. - 3:00 p.m. **Death and Dying (Continued from Morning)**  
3:00 p.m. - 4:00 p.m. **Crisis Intervention — Philosophy and Techniques**  
4:00 p.m. - 5:00 p.m. **Post-Trauma Counseling — Philosophy and Techniques**  
5:00 p.m. - 6:00 p.m. **Spiritual Dimensions of Trauma**

### ***Day Three — Wednesday***

- 9:00 a.m. - 10:00 a.m. **Video and Discussion: "The Killeen Massacre"**  
10:00 a.m. - 11:30 a.m. **Group Crisis Intervention (Debriefing) – Philosophy and Techniques**  
11:30 a.m. - 12:30 p.m. **Local Pre-Crisis Planning & the Draft Action Plan**  
12:30 p.m. - 1:30 p.m. **Lunch (On Your Own)**  
1:30 p.m. - 4:00 p.m. **Coordinating a Community Crisis Response**  
4:00 p.m. - 6:00 p.m. **Small Group Work: Case Studies of Communities in Crisis**

### ***Day Four — Thursday***

- 9:00 a.m. - 12:30 p.m. **Crisis and the Continuum of Age (Young and Elderly Victims)**  
12:30 p.m. - 1:30 p.m. **Lunch (On Your Own)**  
1:30 p.m. - 3:30 p.m. **Crisis From a Cross-Cultural Perspective**  
3:30 p.m. - 5:30 p.m. **Simulated Group Crisis Intervention Session**  
5:30 p.m. - 6:00 p.m. **Discussion of Simulation**

### ***Day Five — Friday***

- 9:00 a.m. - 11:00 a.m. **Case Study Small Group Presentations**  
11:00 a.m. - 12:30 p.m. **Practice Group Crisis Intervention Sessions**  
12:30 p.m. - 1:30 p.m. **Lunch (On Your Own)**  
1:30 p.m. - 3:30 p.m. **Practice Group Crisis Intervention Sessions (Continued)**  
3:30 p.m. - 5:00 p.m. **Coping With Caregiver Stress**  
5:00 p.m. - 6:00 p.m. **Graduation Ceremony**

*Breaks approximately every 50 minutes.*

*\*Agenda may be amended. Indianapolis agenda will change to fit into 4 10-hour days.*



## *. . . Your Attention, Please . . .*

- ⇒ Each applicant will receive a reply to his/her application.
- ⇒ Approved applicants will receive a confirmation package containing more detailed information, as needed, about the training for that city.
- ⇒ If a sufficient number of highly experienced applicants are confirmed, NOVA reserves the right to provide a separate advanced level track.
- ⇒ For information on special events or interesting things to do in the city where you will attend the training, contact that city's Chamber of Commerce or Convention/Visitor's Bureau to request that a packet of information be sent in advance.

### *Hotel and Training Facility Information*

#### **Longmont, CO • June 2-6, 1997**

Raintree Plaza Hotel/Conference Center • 1900 Ken Pratt Boulevard, Longmont, CO 80501  
(303) 776-2000 • Special NOVA Rate: \$87 single, \$97 double (plus 6.9% tax)  
Airport Express Shuttle • (303) 772-5466 • \$11 one way • complimentary daily parking  
Amenities: mini-suites, refrigerator/coffee maker, business center, European Breakfast Buffet and nightly refreshments included in room rate, daily box lunches @ \$8.95, pool/gym with sauna, on-site car rental service, near Boulder, Denver, Rocky Mountain National Park.

#### **Danvers, MA • June 23-27, 1997**

Tara's Ferncroft Conference Resort • 50 Ferncroft Road • Danvers, MA 01923  
(508) 777-2500 x 7950 • Special NOVA Rate: \$73 single, \$79 double (plus 9.7% tax)  
Granada Airport Shuttle • (800) 633-6220 • \$38 round trip (need hotel reservation number)  
Amenities: Welcoming Reception, 1 Luncheon and daily coffee, compliments of Essex County DA's Office, complimentary parking, total fitness center, golf, lunch buffet bar, near historic Salem and Boston.

#### **Savannah, GA • July 7-11, 1997**

Savannah Marriott Riverfront • 100 General McIntosh Boulevard • Savannah, GA 31401  
(912) 233-7722 • Special NOVA Rate: \$94 single/double (plus 12% tax)  
McCall's Airport/Amtrak Shuttle • (800) 673-9365 • \$15 one-way, \$25 round-trip  
Amenities: Full fitness facility, discounted daily parking rate of \$7, historic tours and river cruises, golf/tennis/horseback riding. A "Top 10 Walking City" on the beautiful riverfront.

#### **Indianapolis, IN • July 30 - August 2, 1997**

St. Vincent Marten House, 1801 West 86th Street, Indianapolis, IN 46260  
(317) 872-4111 • (800) 872-3111 • Special NOVA Rate: \$68 (+\$6.80 tax) • rooms sleep 4  
Ground transportation: Indy Connection Limo Service • (317) 241-7100 • \$13 one way  
Amenities: U.S. Attorney's Office arranging special lunch rates @ \$10/day (payable Day One), complimentary parking, fitness center, indoor pool, sauna, north of downtown.  
(NOTE: The Indianapolis training is scheduled for four 10-hour days, not five days!)

## Application Form

**Applicant Information:** Please type. Photocopied forms will be accepted. One form per applicant.

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Agency Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Fax: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

The training is being provided in four locations. Please indicate which city you prefer to attend:

- Longmont, CO, 6/2-6/97                       Savannah, GA, 7/7-11/97  
 Danvers, MA, 6/23-27/97                       Indianapolis, IN, 7/30-8/2/97

- I understand that I am making a commitment to help establish a community-based crisis response team in exchange for free training and materials. I will make every good faith effort to honor that commitment.
- I understand that if my application is accepted, I will receive five days of training, a training manual and other relevant materials at no charge. Other costs (hotel, meals, ground transportation, miscellaneous) will be my responsibility.
- I will be applying for Continuing Education Units with my professional licensing authority.
- Please specify if you need assistance with:     Mobility     Meals     Communication  
Describe: \_\_\_\_\_
- I would consider rooming with another trainee to save costs. Please put my name on a list and let me know if others would like to share rooms. I understand that I have to make all room-sharing arrangements and that NOVA bears no responsibility if the arrangement does not work out.
- I would like to display or distribute information about my agency or our community crisis response team during the training week. Please contact me.

**Attachment Information:** The following information **must** be attached for **each** applicant.

- Cover letter. Describe why *you* want this training and why *you* are committed to establishing a community crisis response team.
- Five letters of support. At least one letter must be from the organization/agency where team is to be established. At least one letter from a local governmental entity supporting the establishment of the team (for example, the chief of police, the county prosecutor or a municipal social service agency). Other letters can be from agencies, community leaders and personal references.
- Current resume. Indicate at least three years of crisis/crime victim work-related education and experience.
- Signed Statement of Commitment to Develop Action Plan (on the reverse).

Return application to, or for more information contact, Cheryl Guidry Tyiska, National Organization for Victim Assistance, 1757 Park Road, N.W., Washington, D.C. 20010, (202) 232-6682; fax: (202) 462-2255, e-mail: nova@digex.net or see us on the Web at <http://www.access.digex.net/~nova>.

Date rec'd: \_\_\_/\_\_\_/\_\_\_ Reviewer: \_\_\_\_\_ Accepted: Yes \_\_\_ No \_\_\_ Confirmation Sent: \_\_\_/\_\_\_/\_\_\_



# ***Statement of Commitment to Develop an Action Plan to Establish a Local Crisis Response Team***

The National Organization for Victim Assistance (NOVA), with support from the Office for Victims of Crime (OVC), has worked collaboratively to ensure that this training is made available to appropriate persons.

The purpose of the training is to promote the establishment of community- and institution-based crisis response teams. The crisis response teams will enhance the ability of the victim assistance and emergency response communities to meet the needs of large numbers of people who are traumatized by crime and other crises.

Participants at this training will be expected to attend the entire five-day, 40-hour session (four 10-hour days in Indianapolis). The session will provide, among other topics, an orientation to the need for crisis response teams, descriptions of the objective and subjective dimensions of community-wide trauma, the immediate and long-term crisis reactions related to major trauma, specific techniques to provide individual crisis intervention, group defusing and debriefing, and post-trauma emotional support, spiritual dimensions of trauma, and coping with the stress of trauma response. Participants will be asked to take part in several interactive training exercises during the week that will illustrate the group debriefing process and how to coordinate a response to a community-wide trauma.

Most of the training will focus on special techniques to transfer the principles of crisis intervention with individuals to the needs of large groups of traumatized people. Part of the training will describe how to establish a community crisis response team, and will provide information on how to coordinate a team effort in the event of a major crime or other crisis event. Each participant will be asked to begin to develop a Draft Action Plan for development of a local team in his/her community or organization. Once the training is completed, participants will be asked to return to their home community, meet with community leaders and refine the Draft Action Plan further. Once the Final Action Plan has been accepted by local leaders, the participant will be asked to begin the actual establishment of the team.

Approximately six weeks after the completion of the training, NOVA staff will contact each participant to obtain information about the progress of the Action Plan. NOVA will want to know about the successful techniques employed by the participants. Should the participant encounter obstacles, NOVA staff will provide technical assistance and support to help resolve the problem.

By signing this Statement of Commitment to Develop an Action Plan, participants agree to develop such an Action Plan and to work diligently toward the establishment of a local team.

***I have read the statement above, and commit myself to attending the full training, developing an Action Plan, and working toward establishment of a local community- or organization-based Crisis Response Team. I understand that I will need to work collaboratively with my community and/or institutional leaders and that I will receive information and guidance from NOVA, OVC, and regional CRT leaders, as needed.***

***Name and Title (Print)***

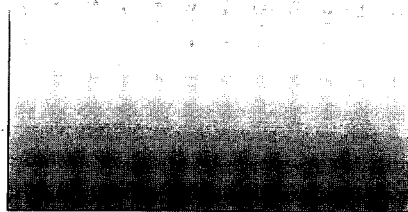
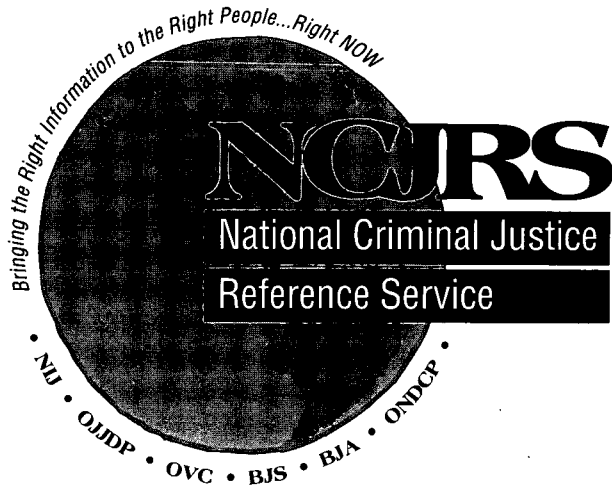
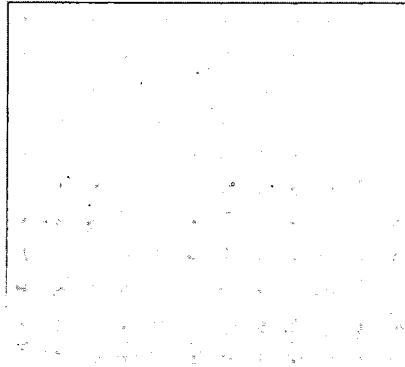
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***Signature***

***Address of Agency***

***Date***

***Address of Agency***



# USER'S GUIDE



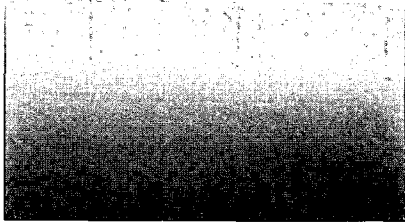
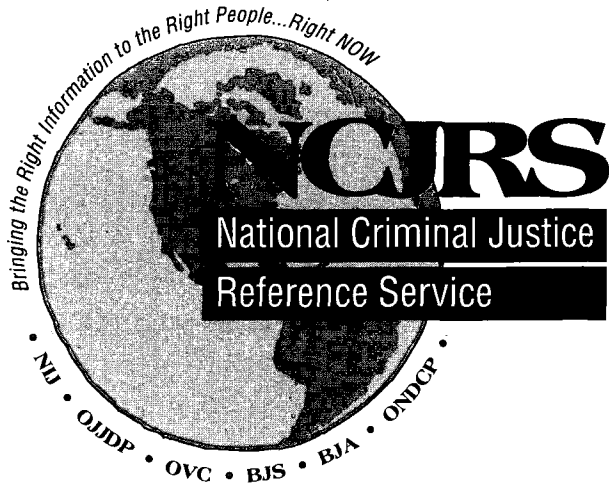
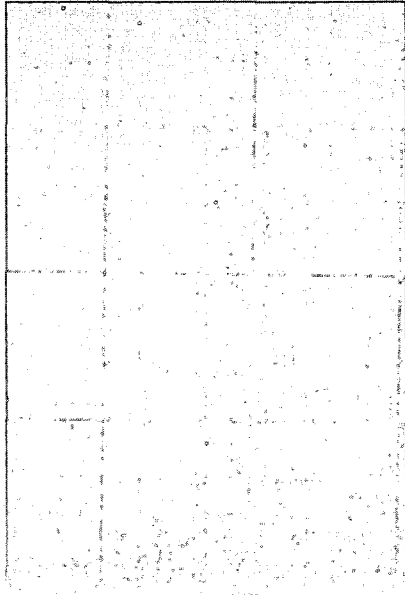
The National Criminal Justice Reference Service (NCJRS) is a criminal justice clearinghouse and reference service that maintains specialized information centers for the

U.S. Department of Justice, Office of Justice Program agencies  
National Institute of Justice  
Office of Juvenile Justice and Delinquency Prevention  
Office for Victims of Crime  
Bureau of Justice Statistics  
Bureau of Justice Assistance

and for the

Office of National Drug Control Policy

NCJRS is administered by the  
National Institute of Justice.



NCJ 155063

# USER'S GUIDE



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# About This Guide

This is your guide to NCJRS—the National Criminal Justice Reference Service—one of the most extensive sources of information on criminal justice in the world.

When you have a question related to criminal or juvenile justice, NCJRS can help.

The answer may be found in one of the hundreds of documents produced annually by the Department of Justice; these documents are printed and electronically published with assistance from NCJRS. It may be in the NCJRS Document Data Base of more than 135,000 resources. It may be best found through a referral to another organization, provided by one of our information specialists.

This *Guide* gives you details on what NCJRS has to offer and how you can get the information you are looking for.

## What Is NCJRS?

The National Institute of Justice (NIJ), the principal research and development agency of the U.S. Department of Justice, established NCJRS in 1972 to serve as a national and international clearinghouse for the exchange of criminal justice information, as mandated by

# ■ ■ NCJRS User's Guide ■ ■ ■

Congress in the Omnibus Crime Control and Safe Streets Act of 1968. NIJ is part of the Office of Justice Programs (OJP) of the U.S. Department of Justice. It now serves all bureaus of the Office of Justice Programs of the U.S. Department of Justice and the Office of National Drug Control Policy. NCJRS also incorporates a cost recovery program.

NCJRS is operated under contract #OJP-94-C-0006 with Aspen Systems Corporation, 1600 Research Boulevard, Rockville, MD 20850.

## **Who Uses NCJRS? What Information Is Requested?**

- A corrections department official asks for information on how to build more prison space at less cost.
- A police administrator in an area of rising crime wants to know if there are any successful repeat offender programs in other jurisdictions.
- A high school principal concerned about student safety wants to know about violence prevention programs that have been developed for secondary schools.
- Judges and prosecutors ask about victim service programs that have been developed in other States.
- Citizens on a task force to combat drug abuse ask for information on sources of funding for drug control and treatment programs.

The information NCJRS provides may consist of statistics, program descriptions, research findings, or document citations and abstracts. It may be provided orally or in the form of printed documents, audio-visual products, microfiche, data base printouts, electronic files, or the data bases themselves via CD-ROM, electronic bulletin board, diskette, or the NCJRS gopher on the Internet. It also includes referrals to people, programs, associations, and other data bases. Some forms of information are free, and some are provided at cost. The *NCJRS User Guide* is your key to this wealth of information. It tells you about all these resources and services and how you can obtain them.

## NCJRS responds to these frequently asked questions (FAQ's):

- How many crimes are committed with firearms?
- How many people are on death row?
- What percentage of crime is reported to the police?
- What is the cost of crime to victims?
- How many juveniles are waived or transferred to the adult criminal courts each year?
- What ratio of police officers to population served is recommended?
- How can I obtain a copy of the *Uniform Crime Reports*?
- How many female police officers are there in the United States?
- Where can I get information on controlling police response to stress?
- How much crime can be attributed to drugs?

## Using the Guide

Part I of this manual describes the resources, services, and products of NCJRS. It describes:

- Ways NCJRS can help you approach your criminal justice problem with better information.
- The information collections and data bases that are built and maintained by NCJRS as well as the information products developed from these data bases.
- The specific agencies within the U.S. Department of Justice, Office of Justice Programs, as well as the Office of National Drug Control Policy, for which NCJRS maintains specialized information centers.

Part II tells about the various ways you can access NCJRS information and take advantage of NCJRS information products and services.

## **Becoming a Registered User**

The best way to keep posted on new services and products available from NCJRS is to become a registered user. You will receive a bimonthly catalog that discusses new products and services in the criminal and juvenile justice fields. Each issue also contains abstracts of selected recent additions to the NCJRS document collection and an order form for items distributed by NCJRS. You will also receive the *National Institute of Justice Journal*, a publication that will keep you up-to-date on criminal justice research and initiatives. Both publications are free to registered users in the United States and cost a nominal fee for users in Canada and other foreign countries.

To become a registered user, just call NCJRS at **800-851-3420** (**301-251-5500** from outside the United States). Or write to NCJRS, PO Box 6000, Rockville, MD 20849-6000. You will be asked to complete a form that indicates your areas of interest, organizational affiliation, and occupational category so that you can be kept informed of relevant news of interest to you and your work.

You can also reach NCJRS through the NCJRS Bulletin Board System (NCJRS\*BBS) via modem at **301-738-8895** or via the Internet at **look@ncjrs.aspensys.com** (for general information) or at **askncjrs@ncjrs.aspensys.com** (to ask questions or order materials). See Part II of this guide for more information on accessing NCJRS and its resources.

## **Cost Recovery Program**

NCJRS is supported by the U.S. Department of Justice to provide criminal justice research information to criminal justice practitioners and researchers, public officials at all levels of government, and others interested in improving the criminal justice system. Most reports, brochures, and other information materials are provided free.

However, budgetary constraints require the charging of minimal fees for certain products and services. This enables NCJRS to ensure that basic information services continue to be available to all who need them.

Out-of-print agency documents (which must be photocopied) and some information products related to the NCJRS Document Data Base and other, specialized data bases are provided for a nominal fee. The cost recovery program also includes postage to countries outside the United States, special dispatch of products within the United States, and audiovisual, microfiche, and electronic products.

You must prepay for such products and services, either by check, credit card, or government purchase order, or you can open an NCJRS deposit account by making an advance deposit to draw on for your purchases. All payments must be in U.S. funds drawn from U.S. banks. Contact NCJRS for more information on opening a deposit account.





# Part I. NCJRS—Its Services and Its Resources

NCJRS is a criminal justice information clearinghouse and reference service created by the National Institute of Justice in 1972.

NCJRS contains specialized information centers to provide publications and other services to the constituencies of each of the other OJP agencies:

- **Juvenile Justice Clearinghouse**, for the Office of Juvenile Justice and Delinquency Prevention (OJJDP).
- **Office for Victims of Crime Resource Center**, for the Office for Victims of Crime (OVC).
- **Bureau of Justice Statistics Clearinghouse**, for the Bureau of Justice Statistics (BJS).
- **Bureau of Justice Assistance Clearinghouse**, for the Bureau of Justice Assistance (BJA).

and a recent affiliate:

- **ONDCP Drugs & Crime Clearinghouse**, for the Office of National Drug Control Policy (ONDCP) of the Executive Office of the President.

These agencies participate in building the NCJRS Document Data Base and in providing the NCJRS products and services described in this *Guide*. Through specified toll-free 800 lines, NCJRS furnishes direct information and dissemination services to the agencies' special constituent audiences. (See "Specialized Information Centers of NCJRS," page 19, for more about particular services and publications.)

## NCJRS Document Data Base

The core of NCJRS is its Document Data Base, which grows at the rate of about 500 publications per month and currently contains citations of more than 135,000 criminal justice and juvenile justice articles, reports, publications, and audiovisual products from the United States and other countries, published from the early 1970's to the present. These documents contain statistics, research findings, program descriptions, congressional hearing transcripts, and other substantive information on a wide range of criminal and juvenile justice topics including corrections, courts, crime prevention, law enforcement, sentencing, and victim services. The citations include full information on title, author, sponsoring agency, purchasing address, and journal citation plus 100- to 200-word summaries of each document's contents. English abstracts are provided for all documents written in foreign languages.

The data base is indexed using the *National Criminal Justice Thesaurus*, which contains more than 5,000 subject, geographic, and organizational index terms as well as 30,000 cross-references. Using the index terms listed in the *Thesaurus* enables you to retrieve quickly and precisely all the citations relevant to your question.

You can access the Document Data Base in three ways:

- **On CD-ROM.** You can search the data base by keyword on an easy-to-use CD-ROM, which NCJRS updates every 6 months. You can download the citations selected and the document abstracts to a diskette or print them out.
- **On DIALOG.** You can ask your local or academic librarian to search the file for you on DIALOG, an international electronic information retrieval service.
- **By calling NCJRS for a custom search.** NCJRS information specialists regularly search the Document Data Base to respond to user queries. You can receive the results of a search tailored to your information needs (see "Reference and Referral Services" for more about custom searches). If the user is affiliated with the criminal justice system, no fee is charged.

For information on obtaining individual documents in the NCJRS collection, see "How To Obtain Documents and Products" in Part II.

## **Additional Data Bases on Specific Topics**

NCJRS has developed additional data bases to meet new criminal justice needs, and it makes the information they contain, and sometimes the data bases themselves, available to you.

### **Corrections Construction Data Base**

This data base serves as the centerpiece for NIJ's Construction Information Exchange, a program created to exchange data and information about prison and jail construction. The data base contains descriptions of recently built or renovated prisons and jails in the United States, obtained through surveys of facility administrators and architects. Each facility listing presents many informative details, including such items as construction costs, construction time, facility dimensions, inmate security, fire protection systems, operational costs, and technological capabilities.

NCJRS can search the data base to give you a customized correctional facility profile that provides up to 600 items of information on each facility matching the specifications of your request. You can also obtain the contents of the data base on diskette in dBASE III and dBASE IV, so you can search the files yourself on your personal computer. The data base is available on double-sided, double-density diskettes formatted for 360K IBM-compatible drives.

At periodic intervals, NIJ publishes a comprehensive *National Directory of Corrections Construction*, which presents profiles and floorplans of all recently constructed facilities, and *Construction Bulletins*, which highlight innovative forms of corrections construction and financing. In addition, index factors (updated annually) are available to assist in estimating and comparing facility costs for construction in different regions for different years and construction in a particular region for different years.

## **PAVNET (Partnerships Against Violence Network)**

This data base contains descriptions of about 600 anti-violence programs and 325 sources for technical assistance, information, and potential funding. PAVNET was initiated by NIJ but represents the cooperative efforts of numerous agencies and more than 30 of their clearinghouses in the U.S. Departments of Agriculture, Education, Health and Human Services, Housing and Urban Development, Justice, and Labor. The data base includes local, State, and national programs, both public and private, designed to combat violence in families, schools, and the community and to deal with related issues such as substance abuse and aid to victims. Entries under Information Sources and Technical Assistance include national clearinghouses, private associations, and Federal resources. Funding sources include both Federal and private foundation assistance.

The data base is available on the Internet. To access PAVNET online, the address is *pavnet.esusda.gov* and select menu item number six. NCJRS distributes the *PAVNET Online User Guide*,

which describes how to access and search the PAVNET menus. In addition, NCJRS makes available the contents of the PAVNET data base in the two-volume, indexed *Partnerships Against Violence Resource Guide* and on high density 3 1/2-inch diskettes in either WordPerfect 5.1 or ASCII.

## NCJRS Online

Information from NCJRS is now available to users through the NCJRS Bulletin Board System (NCJRS\*BBS) and services on the Internet. These technologies offer users opportunities to obtain documents and access NCJRS information specialists via personal computers.

### NCJRS Bulletin Board System (NCJRS\*BBS)

This earliest component of NCJRS Online has been updated and made easier to use and can help individuals and organizations obtain and share information, experiences, and views. You can access the NCJRS\*BBS over the Internet or simply with a telephone and computer modem. For the price of a telephone call, you can send and receive electronic mail, transfer documents, and receive news of criminal justice activities, such as:

- Timely news about programs, policies, publications, and plans for Office of Justice Programs agencies and NCJRS.
- Quarterly "Hot Topics," information compiled from NCJRS resources about a key subject with high user interest.
- Information about all NCJRS services.
- What's happening in the criminal and juvenile justice world, including the text of press releases, public announcements, and conference information.
- What can be obtained from other criminal justice resources.

# NCJRS User's Guide

The NCJRS\*BBS offers these services:

- Downloading capabilities for free documents and other information.
- Ability to order fee-for-service products.
- A communication forum for users (User Information Exchange).

See Part II, "Online Access," for information on how to reach NCJRS\*BBS. (See page 30.)

## NCJRS Internet Services

NCJRS e-mail has two general addresses on the Internet:

- **look@ncjrs.aspensys.com** is the address to use if you want an overview of NCJRS, NCJRS Online, and other clearinghouse services. This service automatically sends a three- to four-page message that answers frequently asked questions about NCJRS.
- **askncjrs@ncjrs.aspensys.com** is the address to use to request information or order publications. Any user with Internet e-mail capability can use this service.

The **NCJRS JUST INFO** is a biweekly online newsletter containing criminal and juvenile justice news from Office of Justice Program agencies and the Office of National Drug Control Policy. JUST INFO also provides information about products and services available through NCJRS. The newsletter is distributed free via e-mail to listserv subscribers on the 1st and 15th of each month. To subscribe:

- Send an Internet e-mail message to:  
**listproc@ncjrs.aspensys.com**
- Leave the subject line blank.
- In the body of the message, type *subscribe justinfo*, and then type your name, for example, *John Smith*.



The **NCJRS gopher** on the Internet currently provides basic information from and about each of the Office of Justice Programs agencies and the Office of National Drug Control Policy, including funding initiatives and program activities, as well as information about NCJRS products and services. The gopher also provides users with a connection to the NCJRS\*BBS and direct access to criminal justice resources around the world.

The **NCJRS World Wide Web (WWW)** offers a graphical link to information about NCJRS, the OJP agencies, and ONDCP.

See Part II, "Internet Services" on how to access the gopher and WWW sites.

## **Reference and Referral Services**

NCJRS provides a variety of reference and referral services. Information specialists can help you find answers to questions about a wide range of criminal and juvenile justice issues. Their responses can take several forms.

If you need research findings or program information, NCJRS will provide you with the resources available from the clearinghouse or refer you to particular organizations. The information specialist may suggest agency publications, audiovisual materials, or data base products that contain the information you are looking for. The section "Specialized Information Centers of NCJRS" provides details about the various series published by Office of Justice Programs agencies, all of them available from NCJRS. In addition, the information specialist may suggest you take advantage of the clearinghouse's fact-finding service described in the next section.

## **Data Base Searches and Products**

Users of NCJRS can acquire information from many sources: the NCJRS Document Data Base, publications from OJP agencies and ONDCP, and external resources such as those available through Internet searches.

**Packaged Topical Searches.** These prepackaged searches contain 30 complete document citations, with abstracts, from the Document Data Base on specific criminal or juvenile justice topics. More than 130 search packages are available on such topics as domestic violence, juvenile gangs, electronic monitoring, money laundering, and illegal substance abuse among juveniles.

**Topical Bibliographies.** These packages contain up to 200 citations, with abstracts, from the Document Data Base and include subject and title indexes. They are also available on diskette. NCJRS offers more than 35 topical bibliographies on such subjects as violence prevention, minorities in the criminal justice system, and victim services.

**Custom Searches.** You can set the specifications for a search of the data base tailored just to your needs. For instance, once you have chosen the topic, you can also elect to identify only documents published within a given range of years, or you can draw on the entire NCJRS file. You can decide to include or exclude foreign language documents, audiovisual items, or journal articles. You receive a printout of the bibliographic information and an abstract for each document in the data base on your topic and within your specifications.

You can also ask for your custom search on a double-sided, double-density 3 1/2-inch diskette, formatted for 360K IBM-compatible drives. You can view or read the information on the diskette by using any ASCII text editor and most word processing programs. Each diskette enables you to search by title, index term, accession number, or keyword and then print all or part of the abstracts.

**Criminal Justice Resource Packages.** These contain groups of publications published by OJP agencies and ONDCP on particular topics, such as community policing, boot camps, family violence, intermediate sanctions, violence against women, and drug testing. Individual packages may also contain statistical material, reading lists, referral lists, and literature searches outside the NCJRS Document Data Base.

## **Fact-Finding Service**

When you don't have the time to conduct your own research or access resources or information on a particular topic, NCJRS information specialists can provide an array of customized research services. They supplement NCJRS resources with information from criminal justice and juvenile justice agencies, professional associations, news articles, and other data bases, including LEXIS/NEXIS, DIALOG, and DataTimes. Examples of results of the NCJRS fact-finding service include:

- State-by-State program or legislative information presented in an easy-to-read format.
- Tables or graphs, with text that explains the answers to your questions.
- Specialized directories or lists of Federal, State, or local justice agencies, organizations, or institutions.
- Summaries of documents, research reports, and news articles that address specific issues.

Depending on your questions, the fact-finding service offers a variety of products to fit your needs. Fees have ranged from \$50 to \$4,000.

## **Referrals**

NCJRS information specialists can also furnish particulars on a wide range of criminal and juvenile justice organizations, agencies, and experts throughout the United States that can supplement the clearinghouse's information and help you find solutions for your particular problem.

## **Onsite Library Services**

NCJRS offers a full range of library services at its Research and Information Center located at 1600 Research Boulevard in Rockville, Maryland. The physical documents cited in the NCJRS Document Data Base are available at the Research and Information Center for

patron use. Walk-in patrons can also pick up copies of selected criminal justice documents free of charge. The center is open from 8:30 a.m. to 5:00 p.m. Monday through Friday, with a trained library and reference staff available to assist you. Terminals are available for accessing the NCJRS Data Base online and on CD-ROM. A photocopier is also available. Materials can be borrowed from NCJRS via interlibrary loan. See "Documents Through Interlibrary Loan," page 35, for more information on document loans.

## Conference Support

NCJRS supports criminal and juvenile justice conferences in a variety of ways.

- Free announcement of your conference in the Criminal Justice or Juvenile Justice Conference Calendars issued bimonthly to subscribers (see "Other NCJRS Information Products," page 17).
- Bulk copies of publications to reflect your conference agenda. The materials can be included in your conference packet, distributed at workshops, or enclosed in your mailing.
- Reading lists and fact sheets designed to complement a program, including publication order information.
- Access to a variety of specialized or customized mailing lists.
- Information packages and search products on specific topics, with full descriptions of important research from the NCJRS collection (see "Reference and Referral Services").
- Onsite exhibits and participation of an NCJRS representative, to let attendees know about NCJRS and its resources.

Contact NCJRS for more information on these conference support services.

## **Other NCJRS Information Products**

In addition to the products offered as part of NCJRS reference services, the clearinghouse offers numerous additional products to meet specific criminal justice information needs.

### **Accessions List**

Many librarians purchase subscriptions to the NCJRS Monthly Accessions List to receive early notification of publications and other materials submitted and accepted for inclusion in the NCJRS Document Data Base. This service is equivalent to being placed on the first-notice list of major publishers and other sources of information in the criminal and juvenile justice field. The Monthly Accessions List can be purchased separately by subject or as a package including eight subjects: corrections, courts, crime prevention, criminal justice research, drugs and crime, juvenile justice, law enforcement, and victims.

### **Conference Calendars**

NCJRS maintains two conference calendars for users interested in attending or involved in planning conferences and training events:

- The Criminal Justice Conference Calendar, sponsored by NIJ, lists up to 150 upcoming criminal justice conferences annually.
- The Juvenile Justice Conference Calendar, sponsored by OJJDP, lists upcoming national, international, regional, and local juvenile justice-related conferences, training workshops, and seminars.

Both calendars provide detailed descriptions for each conference listed, including dates, locations, sponsoring organizations, contact people, registration costs, and conference themes. You can purchase bimonthly issues of the calendars through an annual subscription or on a one-time basis.

## Microfiche Products

NCJRS microfilms all uncopyrighted documents (and copyrighted publications with publisher permission) so that the full text of hard-to-find and out-of-print documents can be made available to researchers and others. These are distributed singly, in groups, and as an entire microfiche collection for criminal justice agencies, college and university libraries, and research organizations.

**Microfiche Collection.** The collection contains some 35,000 full-text documents and is accompanied by detailed microfiche indexes for easy reference. In addition to materials in the public domain, the collection contains copyrighted materials that NCJRS has received permission to film, including articles from law reviews and other professional and scholarly journals. Many documents available on microfiche were never published for wide dissemination. These include transcripts of congressional hearings, speeches, academic studies, and State and local agency reports. If you want to receive microfiche documents as they are created, you can place a standing order to receive regular monthly supplements, which contain approximately 100–200 documents.

## NCJRS International

NCJRS products and services are available worldwide, and entries to the Document Data Base include numerous reports and articles from other countries, some in foreign languages (for which English-language abstracts are provided).

NCJRS also coordinates an International Document Exchange program with more than 100 members from 50 countries. The members exchange information and research with NCJRS continuously; they are a source for information about NCJRS in their countries.

The NCJRS\*BBS contains a special section devoted to international criminal justice topics—NCJRS International Services. In this section, you will find information about international conferences and

summaries of publications with an international focus. You can download the 15-page *NCJRS International Overview and Guide*.

## **Specialized Information Centers of NCJRS**

NCJRS provides information support to the agencies of the Office of Justice Programs and to the Office of National Drug Control Policy. The NCJRS Document Data Base is the chief repository of information covering all areas of criminal and juvenile justice, and the agencies contribute to its building and maintenance as well as to the development of products and services surrounding it.

In the years since NCJRS was created by the National Institute of Justice, other OJP agencies and ONDCP have joined NCJRS and have established specialized information centers, each with its own 800 number and staff to answer questions about the agency's mission and initiatives and develop links with particular audiences. Each center furnishes information on the agency's publications and other information products and makes documents available for viewing and/or downloading via the NCJRS\*BBS, the NCJRS gopher and World Wide Web sites, and the File Transfer Protocol (FTP) site (see Part II).

### **National Institute of Justice** **For information, call 800-851-3420**

The National Institute of Justice is the research and development agency of the Department of Justice, established to develop knowledge that can help prevent and reduce crime and improve the criminal justice system. Specific congressional mandates are to sponsor special projects and research and development programs; conduct national demonstration projects; develop new technologies to fight crime and improve criminal justice; evaluate the effectiveness of criminal justice programs; carry out research on criminal behavior; develop new methods of crime prevention; and recommend actions that can be taken by Federal, State, and local governments as well as private organizations to crime prevention and law



enforcement. Publications and audiovisual products of the National Institute of Justice include the following:

- The *National Institute of Justice Journal* highlights research and evaluation findings and programs in many areas including community policing, drugs and crime, intermediate sanctions, and new criminal justice technologies.
- *NIJ Research and Evaluation Reports* present comprehensive reviews of the results of NIJ-sponsored research and development projects. Often they include a description of the research methodology and a review of the literature in addition to findings and recommendations.
- The *NIJ Research in Brief* and *Research in Action* series synthesize recent research and evaluation results and summarize key findings in 6- to 12-page bulletins. These publications offer concise reviews of subjects that other publications treat in greater depth. *Evaluation Bulletins*, a subset of the *Research in Brief* series, report the results of evaluations of specific drug control programs in States and local communities.
- *Construction Bulletins* summarize case studies of progressive techniques for building correctional facilities, focusing especially on techniques that provide time and cost savings.
- *Issues and Practices in Criminal Justice* reports explore program options and management issues based on research and evaluation findings, operational experience, and expert opinion. The intent is to give criminal justice managers and administrators information to help them in planning, implementing, and improving programs and practices.
- *NIJ Program Focus* publications present case studies of criminal justice programs and practices.
- *Perspectives on Policing* present reports from the Executive Session on Policing, cosponsored by the National Institute of Justice and Harvard University's John F. Kennedy School of

Government, and held with some of the leading figures in American policing. These 8- to 16-page bulletins highlight issues of importance to the improvement and future of policing.

- Brief fact sheets in the *National Institute of Justice Update* series give highlights of recent research and evaluation findings or successful programs of NIJ.
- *Crime File Videotapes and Study Guides* present unrehearsed panel discussions by criminal justice experts on critical issues facing the public. Each 28 1/2-minute program is designed to stimulate discussion and raise awareness about crime and its consequences. Crime File programs are ideal for classroom discussion, professional training, and community forums as well as for showing on local television stations. The *Study Guides*, which supplement most videotapes, present background information and explain the issues surrounding the topic.
- *Research in Progress Videotapes* present 60-minute lectures and answers to audience questions from well-known criminal justice researchers. For example, one tape features Alfred Blumstein discussing his research on youth violence, guns, and drug markets; another features Peter Greenwood on "Three Strikes and You're Out" initiatives and legislation.

The annually published *NIJ Publications Catalog* lists NIJ publications and videotapes available from NCJRS and contains an order form for obtaining copies.

**Office of Juvenile Justice and Delinquency Prevention**  
**For information, call 800-638-8736**

The mission of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is to provide national leadership, coordination, and resources to prevent and treat juvenile delinquency; improve the effectiveness and fairness of the juvenile justice system; and address the problem of missing and exploited children.

OJJDP's specialized information center at NCJRS, the **Juvenile Justice Clearinghouse**, provides a link to juvenile justice

practitioners and policymakers. The center produces and disseminates the agency's publications and prepares customized responses to information requests.

Free OJJDP materials provided through NCJRS include the following:

- *Juvenile Justice*, OJJDP's journal, contains articles on findings of OJJDP-funded research, successful practices and programs in juvenile justice, and other topics of interest to juvenile justice administrators, practitioners, and community leaders.
- *OJJDP Bulletins* present summary descriptions of research findings, statistical compilations, and innovative programs in juvenile justice produced through OJJDP funding.
- *OJJDP Summaries* present substantive but succinct reports of research studies, program descriptions, statistical analyses, and training initiatives funded by OJJDP on a variety of juvenile justice topics.
- *OJJDP Fact Sheets* are one- to two-page summaries of statistical data on timely issues in juvenile justice.

OJJDP also publishes detailed reports of agency-sponsored research and program initiatives; these may include literature reviews, detailed discussions of research methodologies, and comprehensive bibliographies and are available for a nominal fee.

In addition, OJJDP compiles and makes available a subscription to bimonthly issues of the Juvenile Justice Conference Calendar.

The *OJJDP Publications List* can be obtained free and contains an order form for acquiring copies of OJJDP publications.

### **Office for Victims of Crime**

**For information, call 800-627-6872**

The Office for Victims of Crime is the OJP agency that serves as the Federal Government's chief advocate for all issues affecting crime victims. This role translates into a broad offering of programs and

activities to help crime victims cope with personal and financial devastation resulting from victimization. OVC's leadership role at the Federal level also encompasses activities designed to draw public attention to crime victim needs and to promote victim rights through legislation and public policy.

Victims of Crime Act (VOCA) funding is administered by OVC to all populations affected by victimization, including underserved populations, such as sexually exploited children and victims residing on remote Indian reservations. OVC also awards grants to sponsor training and technical assistance on issues of interest to victim advocates as well as to criminal justice system personnel who are in contact with victims.

The OVC specialized information center at NCJRS, the **OVC Resource Center**, provides victim-related information, covering such issues as domestic violence, child abuse, elderly victims, bias-related violence, victim rights, and victim compensation, to practitioners, policymakers, researchers, and crime victims. The resource center collects, maintains, and disseminates information about national, State, and local victim-related organizations and about State programs that receive funds authorized through VOCA. In addition, the Resource Center provides literature searches of the NCJRS Document Data Base (which contains more than 9,000 victim-related documents) and furnishes referrals to victim programs and national associations.

A catalog of products and publications is available to enable users to obtain OVC materials.

## **Bureau of Justice Statistics** **For information, call 800-732-3277**

The Bureau of Justice Statistics (BJS) is the statistical arm of the U.S. Department of Justice and is responsible for the collection, analysis, and reporting of data related to criminal victimization and the administration of justice. BJS maintains more than two dozen major data collection series from which it publishes and distributes

reports nationwide. Data are published annually on criminal victimization, populations under correctional supervision, and Federal criminal offender and case processing. Periodic series include felony sentencing in State courts, State court prosecutorial practices and policies, pretrial release of felony dependants, and administration of law enforcement agencies and correctional facilities.

The Bureau of Justice Statistics center, the **BJS Clearinghouse**, answers statistical questions and distributes BJS reports to those seeking crime and criminal justice data. It also offers NCJRS Document Data Base searches, statistics information packages, referrals, and other related products and services.

BJS publications include the following series:

- *BJS Crime Data Briefs* present information about topics of current interest in condensed (approximately two-page) form.
- *BJS Bulletins* provide the first release of findings from BJS data collection programs such as the National Crime Victimization Survey, the Law Enforcement Management and Administrative Statistics Survey, National Judicial Reporting Program, National Pretrial Reporting Program, National Prosecutor Survey Program, and the National Prison and Jail Censuses and Surveys of prison and jail inmates.
- *BJS Special Reports* provide summaries of important topics and describe relationships among findings from one or more data sets in more detail than in *BJS Bulletins*.
- *BJS Selected Findings* summarize the data on topics of broad current concern and often include both BJS and non-BJS data.
- *BJS Full Reports*, containing 100 pages or more, are issued periodically. They contain numerous tables and little text. They usually report findings from large BJS data collection programs or report on ongoing grant programs.

- *BJS Discussion Papers* promote the exchange of information, analyses, and ideas in issues related to justice statistics and the operations of the justice system.

Among the other BJS products available from NCJRS are:

- **Crime Victimization Data on CD-ROM.** The most recent edition includes data on the years from 1973 to 1991. Prepared by the Inter-university Consortium for Political and Social Research of the University of Michigan, the CD-ROM contains data sets from the National Crime Victimization Survey. These ASCII files require the use of specific statistical software packages. SAS and SPSS setup files are provided.
- **Slides from *Highlights From 20 Years of Surveying Crime Victims: The National Crime Victimization Survey, 1973-1992.*** Prepared to commemorate the 20th anniversary of the survey, this presentation of 40 slides illustrates the charts and graphs presented in the publication.

The *BJS Catalog* lists BJS publications available from NCJRS and contains an order form to acquire copies of the publications.

### **Bureau of Justice Assistance** **For information, call 800-688-4252**

The Bureau of Justice Assistance (BJA), established in 1984, supports innovative programs to improve and strengthen the Nation's criminal justice system. BJA accomplishes its mission by providing funding, training and technical assistance, and criminal justice information to States and communities, thereby forming partnerships with State and local jurisdictions to combat crime and drug abuse.

The BJA specialized information center, the **BJA Clearinghouse**, shares BJA program information, via publications, reference and referral services, and conferences, with State and local agencies and community groups across the country. This helps structure

statewide criminal justice and drug abuse prevention strategies and subgrant projects.

BJA publications distributed by NCJRS include the following:

- *BJA Bulletins* inform the criminal justice community of new and emerging issues or innovative and progressive ideas and approaches to address these issues. *Bulletins*, up to 12 pages long, are on topics that are likely to be covered in greater detail in other BJA publication series.
- *BJA Program Briefs* are concise descriptions (approximately 25 pages) of programs proven to be effective in the control of drugs and violent crime.
- *BJA Implementation Manuals* provide detailed descriptions (approximately 200 pages) of programs, including specific policies, practices, and procedures used in planning, organizing, implementing, operating, monitoring, and evaluating the programs.
- *BJA Training Manuals* present curriculums for teaching the operations of the programs described in the *Implementation Manuals*.
- *BJA Monographs* provide indepth information on particular elements of programs or describe programs that appear promising but are not yet proven.
- The *Focus on What Works* series summarizes the results of program evaluations either through indepth, comprehensive evaluation reports or through detailed summaries of the evaluation results.
- *Special Analyses* are detailed reports assessing a specific type of Federal or State criminal justice program. These reports present program implementation data and indicators that demonstrate the program's accomplishments for specified periods of time.

- *BJA Fact Sheets* are brief (up to four pages), easy-to-read introductions to specific BJA-sponsored programs. *Fact Sheets* list resources to contact for further information.
- The *Asset Forfeiture Series* is a collection of 16 brief but informative manuals on various aspects of asset forfeiture, written by experts in asset forfeiture and financial investigations and available for purchase for a nominal fee.

The *Bureau of Justice Assistance Publications List* contains an order form to enable users to acquire copies of BJA publications.

**Department of Justice Response Center.** This center, provides information about the criminal provisions, available grants, funding opportunities, and other programs in the Violent Crime Control Act of 1994, as well as other funding opportunities from the OJP agencies. The center features a 24-hour fax-on-demand service for immediate receipt of 50 documents via fax. Person-to-person assistance is available from 9 a.m. to 5 p.m. eastern time weekdays. The center is linked to NCJRS, which fills requests for information and documents. The toll-free telephone number is 800-421-6770.

**Office of National Drug Control Policy  
Executive Office of the President  
For information, call 800-666-3332**

The newest specialized information center of NCJRS has existed since 1987 but is now sponsored by the Office of National Drug Control Policy (ONDCP). The Bureau of Justice Statistics continues to manage the center, now called the **ONDCP Drugs & Crime Clearinghouse**. The center serves as a source of drugs and crime statistics, with special attention given to the needs of Federal, State,



## ■ ■ NCJRS User's Guide ■ ■ ■

and local government agencies. The specialized information center provides the following services:

- Disseminates ONDCP, OJP, and other Federal Government publications relating to drugs and crime.
- Prepares and distributes fact sheets and bibliographies on specific drugs and crime topics.
- Produces a national directory of State drug resources and distributes national reports on drugs and crime data, special reports on current drugs and crime issues, selected bibliographies, fact sheets, and other information products on emerging issues in drugs and crime.
- Responds to information requests for data on illegal drugs, drug-related crime, drug law violations, drug-using offenders in the criminal justice system, drug treatment for offenders, and the impact of drugs on criminal justice administration.
- Maintains a reading room where visitors can use the clearinghouse collection of library documents and vertical file items on drugs and crime.
- Coordinates with Federal, State, and local agencies in identifying other data resources and makes referrals.

*A Publications Order Form* is available on request.

# Part II. Access to NCJRS and Its Resources

## Calling NCJRS

You can call NCJRS toll free from anywhere in the United States at **800-851-3420**. If you are calling from another country, dial **301-251-5500** to reach NCJRS and all component information centers. Except as noted, the telephone lines are staffed from 8:30 a.m. to 7:00 p.m. eastern time, Monday through Friday.

Keep these toll-free numbers handy:

For general information and National Institute of Justice information, call NCRJS, **800-851-3420**.

For Office of Juvenile Justice and Delinquency Prevention information, call the Juvenile Justice Clearinghouse, **800-638-8736**.

For Office for Victims of Crime information, call the OVC Resource Center, **800-627-6872**.

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For Bureau of Justice Statistics information, call the BJS Clearinghouse, **800-732-3277**.

For Bureau of Justice Assistance information, call the BJA Clearinghouse, **800-688-4252**.

For Office of National Drug Crime Policy information, call the ONDCP Drugs & Crime Clearinghouse, **800-666-3332**, which is staffed from 8:30 a.m. to 5:15 p.m.

When you call any of the NCJRS toll-free lines, you will be given several menu options for fast access to general clearinghouse information, document ordering and document order status, and information specialists who can help you find answers to your criminal justice and juvenile justice questions.

## Writing NCJRS

NCJRS is located in Rockville, Maryland, just outside Washington, D.C. Send letters to:

**NCJRS**  
PO Box 6000  
Rockville, MD 20849-6000

To write to specialized information centers of NCJRS, send letters to:

**Name of the agency/NCJRS**  
PO Box 6000  
Rockville, MD 20849-6000

## Online Access

### Access to NCJRS Bulletin Board System

The NCJRS Bulletin Board System (NCJRS\*BBS) is available free 24 hours a day.

To access the NCJRS\*BBS, you need a microcomputer or computer terminal, a modem with settings at 8-N-1 and 9,600 baud, communications software, and access to a telephone line. The first time you call, you must create a unique user name and password that are used from then on to enter the NCJRS\*BBS, view and download information, and send and receive mail messages. Once you log onto the NCJRS\*BBS, you will receive the NCJRS\*BBS *User Guide*.

For more on the features of the NCJRS\*BBS and the information you can obtain through the system, see "NCJRS Online" in Part I.

To register, dial the modem number, **301-738-8895**; modems should be set up to 9600 baud and 8-N-1 or access the BBS through NCJRS Internet services.

To register with NCJRS\*BBS after you access it:

- Type *ncjrs* at the login prompt.
- System asks if you are a new user. If so, answer yes and respond to the registration questions on the screen.
- System then asks you to create a user ID and password. Type your user ID (e.g, *your name*).
- System prompts you to enter your password. Type *your password*.

Note: You will use this user ID and password each time you connect with NCJRS\*BBS.

## Access to Internet Services

You can also access the NCJRS\*BBS through the Internet, via the NCJRS gopher. The Internet address for the gopher is:

**[ncjrs.aspensys.com](http://ncjrs.aspensys.com) 71**

You can also telnet to the BBS at:

**[ncjrspbbs.aspensys.com](http://ncjrspbbs.aspensys.com)**

**World Wide Web.** The NCJRS World Wide Web offers a graphical link to information about NCJRS and the government agencies that the clearinghouse supports as well as to the NCJRS gopher site. The NCJRS website address is:

**<http://www.ncjrs.org>**

**Anonymous FTP Site.** When you connect to the NCJRS Anonymous FTP site, you can obtain a list of publications and software as well as the publications themselves that can be downloaded to your personal computer. To access:

- Type *ftp ncjrs.aspensys.com*. System displays a login prompt.
- Type *anonymous*. System prompts you for your password.
- Type *your e-mail address*.
- Type *cd pub/ncjrs* to change the directory.
- Type *get README.NCJRS* to download the file that describes all the documents available at the FTP site or type *ls* to see a list of the files.

**E-Mail.** If you are interested in viewing general information about NCJRS, send a blank e-mail message to:

**[look@ncjrs.aspensys.com](mailto:look@ncjrs.aspensys.com)**

If you have specific criminal justice questions or requests via Internet, you should send an e-mail message to:

**[askncjrs@ncjrs.aspensys.com](mailto:askncjrs@ncjrs.aspensys.com)**

**JUST INFO Distribution List.** This listserv on the Internet is an electronic newsletter on criminal justice topics, distributed every 2 weeks. To join the list, e-mail **[listproc@ncjrs.aspensys.com](mailto:listproc@ncjrs.aspensys.com)**

## **Online Access to the Document Data Base**

The NCJRS Document Data Base can be searched on DIALOG, an international electronic information retrieval service, as file 21.

Many research, academic, and corporate libraries and information centers have access to DIALOG. To become a DIALOG customer, call 800-DIALOG. For more information on the data base, including the data base on CD-ROM and search tools, see Part I, "The NCJRS Document Data Base," page 8.

## **How To Obtain Documents and Products**

Publications identified through searches of the NCJRS Document Data Base are produced by a variety of public and private organizations. As a rule, only publications of the OJP agencies and the Office of National Drug Control Policy are distributed by NCJRS. The data base citation for each document indicates how and from whom it is available.

### **Materials Distributed by NCJRS**

NCJRS distributes publications, audiovisual materials, and other information products of the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Bureau of Justice Statistics, the Bureau of Justice Assistance, the Office for Victims of Crime, and the Office of National Drug Control Policy. NCJRS and its specialized information centers also offer a variety of information products on criminal and juvenile justice.

Most products have a unique identification number, such as NCJ 123456, or TS 021234, or DD 134567. This identification number is mentioned in all catalogs, fliers, and other materials that announce the availability from NCJRS of specific documents, audiovisual items, and microfiche products. *If you know this number, be sure to use it whenever you contact NCJRS to obtain materials.* This will speed service and prevent errors in identifying items with similar titles.

The bimonthly catalog, which is automatically sent to all registered NCJRS users, announces new items distributed by NCJRS and its specialized information centers. Each issue contains a tear-off order form you can mail to facilitate ordering. However, you can also order

free items from the catalog by:

- Sending e-mail to askncjrs@ncjrs.aspensys.com.
- Ordering copies or downloading documents from the NCJRS\*BBS.
- Downloading selected documents from the FTP site (see below).
- Sending a fax or using automated telephone document ordering (see below).
- Using the fax-on-demand service for selected publications (see below).

To become a registered user, see "About This Guide" in Part I.

You can also make use of the order forms in other government agency and NCJRS publications. To obtain any publication mentioned in this Guide (see Part I, "Specialized Information Centers of NCJRS"), call the appropriate 800 number for a free copy.

**Automated Telephone Document Ordering.** Now **domestic users** of NCJRS can order publications listed in the bimonthly catalog by using a touchtone telephone. To access this service, dial 800-732-3277 (for documents distributed by BJS) or 800-851-3420 (for all other documents distributed by NCJRS).

**Ordering by fax at 401-792-4358.** Up to 10 *free* documents can be ordered. Orders for more than 10 documents and all international orders are subject to postage and handling fees.

**Fax-on-Demand Documents.** You may also order facsimiles of documents from NCJRS's specialized information centers 24 hours a day. Simply dial 301-251-5518 locally or, for long distance ordering, dial any of the toll-free numbers listed in this section of the guide and on the inside back cover.

**Downloading to your own printer.** Selected documents published by the OJP agencies and ONDCP can also be downloaded through the NCJRS\*BBS, the NCJRS gopher, WWW, and FTP sites (see "Online Access" in this section and "NCJRS Online" in Part I).

## **Materials Not Distributed by NCJRS**

Searches of the NCJRS Document Data Base often reveal reports, articles, and other materials not distributed by NCJRS. These materials are published and distributed by other Federal Government agencies, State and local agencies, national associations and nonprofit organizations, and commercial publishers. To obtain these documents, contact the publishers or sponsoring organizations. NCJRS Document Data Base citations give full bibliographic information, journal citations, and ordering addresses (when available). Or take advantage of the following NCJRS services:

**Documents Through Interlibrary Loan.** You can borrow materials cited in the NCJRS Data Base through interlibrary loan within the United States. All borrowing must take place through your local government, academic, or organization library. Your librarian at these locations can prepare the standard American Library Association interlibrary loan form and arrange the loan for you. Documents are loaned for a period of 6 weeks. There is a small fee for borrowing materials via interlibrary loan; the fee is waived for Federal and State libraries and criminal justice agencies.

**Documents on Microfiche.** Approximately one-third of the documents in the NCJRS Data Base are available from NCJRS in microfiche for a nominal charge. To learn if the document you want is on microfiche, look for this notation in the availability field of the document data base record: "NCJRS Microfiche Program." Or contact NCJRS, noting the six-digit identification number of the document you are seeking.

**Reproduction Service.** NCJRS has permission from authors and publishers to photocopy many of the documents in its collection. For the cost of reproduction, NCJRS will send you copies of such documents. A note on the data base record for the document indicating "Paper Reproduction Sales" means you can order a photocopy of the document.



## **NCJRS Seeks Your Comments**

NCJRS constantly seeks to improve services through user feedback. A User Satisfaction Form will be periodically enclosed with materials you receive in response to a request. Your comments are important to us, so please take the time to fill out the form. At any time, you may also call us, write us, or send us electronic mail to let us know what is useful and what isn't, and what other products and services you would like to see from NCJRS!

The following individuals may also be contacted regarding the operation and services of NCJRS:

### **John Schwarz**

Director, Reference and Dissemination Division  
National Institute of Justice  
Room 811  
633 Indiana Avenue N.W.  
Washington, DC 20531  
telephone: 202-305-4893

### **Catherine Doyle**

Information Specialist  
Office of Juvenile Justice and Delinquency Prevention  
Room 300  
633 Indiana Avenue N.W.  
Washington, DC 20531  
telephone: 202-514-9208

### **David Osborne**

Special Assistant to the Director  
Office for Victims of Crime  
Room 1352  
633 Indiana Avenue N.W.  
Washington, DC 20531  
telephone: 202-616-3580

**Marilyn Marbrook**

Publications and Dissemination Chief  
Bureau of Justice Statistics  
Room 1106  
633 Indiana Avenue N.W.  
Washington, DC 20531  
telephone: 202-307-1043

**Laura Minning**

Information Specialist  
Bureau of Justice Assistance  
Room 1086-C  
633 Indiana Avenue N.W.  
Washington, DC 20531  
telephone: 202-307-5974

**Sue Lindgren**

Senior Statistician  
Project Monitor, ONDCP Drugs & Crime Clearinghouse  
Room 1146-C  
633 Indiana Avenue N.W.  
Washington, DC 20531  
telephone: 202-307-0760

*The Office of Justice Programs includes the Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.*





## **Keep these toll-free numbers handy:**

For general information and National Institute of Justice information, call NCJRS, **800-851-3420**.

For Office of Juvenile Justice and Delinquency Prevention information, call the Juvenile Justice Clearinghouse, **800-638-8736**.

For Office for Victims of Crime information, call the OVC Resource Center, **800-627-6872**.

For Bureau of Justice Statistics information, call the BJS Clearinghouse, **800-732-3277**.

For Bureau of Justice Assistance information, call the BJA Clearinghouse, **800-688-4252**.

For Office of National Drug Crime Policy information, call the ONDCP Drugs & Crime Clearinghouse, **800-666-3332**.

**U.S. Department of Justice**  
Office of Justice Programs

*Washington, D.C. 20531*

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Penalty for Private Use \$300

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DOJ/OJP  
Permit No. G-91

## **National Resources for Fraud Victims**

**National Fraud Information Center .....1-800-876-7060**

<http://www.fraud.org>

A nonprofit organization which helps consumers report fraud, and which offers helpful advice on how to avoid becoming a victim. Incident reports are entered in a database which is electronically referred to the National Electronic Fraud Database administered by the Federal Trade Commission and the National Association of Attorney Generals. Such reports are also forwarded to a variety of federal and state regulatory and criminal investigative agencies.

**Consumer Credit Counseling Service ..... 1-800-388-CCCS**

A nonprofit national agency providing free (low cost for some services) and confidential financial counseling which can include help in planning debt payments, credit and budget counseling and educations. Local programs may include mortgage default delinquency intervention.

**Association for Retired Persons.....1-800-424-3410**

National Association for rights of elderly people, has local chapters that deal with many issues and resources involving financial advice including financial information programs which offer workshops on taking charge of your own finances, tax preparation assistance, legal counseling, that can include volunteer programs that helps courts monitor guardianships, assistance in locating jobs, and retirement programs.

**Legal Services Corp. ....202-336-8800**

National contact which can profile names of free and low cost legal aid groups in our communities, which may provide services to low income or elderly consumers.

**Privacy Rights Clearinghouse.....1-800-773-7748**

**Center for Public Interest Law**

Provides information and referral for technology related privacy issues.

**Federal Trade Commission .....202-326-3650**

Bureau of Consumer Protection has information for consumers on ways to avoid consumer fraud, including telemarketing.



**Consumer Action** .....415-777-9635

Nonprofit consumer education and advocacy agency that publishes national and state of California consumer information on telephone, banking and other consumer issues in several languages.

**National Association of Securities Dealers Inc.**

**NASD and state regulators Hotline**.....1-800-289-9999

Consumers will be able to contact hotline to learn if there are pending customer complaints against stockbrokers. Also has website where customers can electronically file complaints about brokers or firms.

**Direct Marketing Association: To remove your name from mail and phone lists.**

**Mail Preference Service**

PO Box 9008

Farmingdale, New York 11735

Will remove your name from most national mailing lists. Send your name and address, including apartment number and zip code. It takes about 4 months to see a reduction in mail received.

**Telephone Preference Service:**

PO Box 9014

Farmingdale, New York 11735

**Operation Restore Trust**

800-HHS-TIPS

A Federal Department of Health and Social Services pilot program aimed at reducing Medicaid and Medicare Fraud and abuse in New York, Florida, Illinois, Texas and California. Hotline allows both beneficiaries and providers can report fraud and abuse, such as when a provider knowingly lies to get paid for services, or change descriptions of care to get paid more. Abuse occurs whenever Medicare or Medicaid pays for items or services which are medically unnecessary, performed incompetently, or priced unfairly.

**There are other resources available by searching the Internet.**

## **Credit Reporting Agencies**

Helpful resource for victims wishing to check or needing to dispute the information stated on their credit report.

Steps to correct incorrect information on a credit card, or to dispute record due to fraud victimization. Suggest you have victims contact the local Consumer Credit Counseling Service for specific information on steps needed.

1. Obtain recent copy of credit report.
2. If information is incorrect, contact phone number on the credit report, requesting forms needed to dispute information listed on the report due to fraudulent use of the credit card.
3. Complete forms when received, return to credit bureau.
4. Credit Bureau must investigate the information provided within 30 days, or remove your disputed information.

**Experian-Consumer Assistance (formerly TRW)**

PO Box 949

Allen, Texas 75013

1-800-392-1122

Charge is \$8 per report effective 3/1/1997

**Equifax Consumer Affairs Department**

PO Box 740256

Atlanta, GA 30374

1-800-685-1111

**Trans Union Consumer Relations**

PO Box 7000

North Olmstead, Ohio 44070

1-800-851-2674

\*\*\* Under federal law, you have the right to receive a free copy of your credit report if you have been turned down for credit, housing, insurance or employment based on derogatory credit information. Under the new Consumer Credit Reporting Reform Act of 1996, you may also receive a free report if you are unemployed and looking for a job, are receiving welfare or believe your credit file contains inaccuracies because of a credit fraud.\*\*\*

## **Other Resources at Individual State or Local Level**

**Adult Protective Services for each state**

**State Attorney General Consumer Protection Office**  
**(Many are now available on the internet)**

**County District Attorney's Office**

**Local or State Bar Associations which may have volunteer legal programs to assist low income or elderly victims**

**State and Federal Regulatory and Enforcement Agencies such as Dept. Corporations, Dept. of Banking, Dept. Real Estate, Dept. Insurance, Dept. Aging,**

**State Medical Board (for Licensing)**

**U.S. Postal Inspector**

**Better Business Bureaus**

**Registry of Charitable Trusts (or check local Attorney General's Office)**

**Nonprofit agencies assisting special populations such as recent immigrants, elderly, women, low income persons, assistance to specific ethnic or cultural groups.**

**Crisis counseling/suicide help lines**

## **Other Resources at Individual State or Local Level**

**Adult Protective Services for each state**

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**State Medical Board (for Licensing)**

**U.S. Postal Inspector**

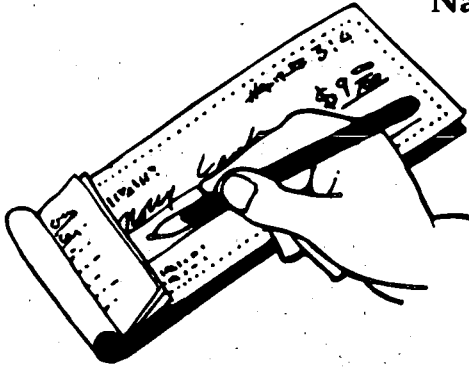
**Better Business Bureaus**

**Registry of Charitable Trusts (or check local Attorney General's Office)**

**Nonprofit agencies assisting special populations such as recent immigrants, elderly, women, low income persons, assistance to specific ethnic or cultural groups.**

**Crisis counseling/suicide help lines**

Order Form for Free Copies of Publications from Consumer Action's  
National Consumer Resource Center



# GOOD CREDIT

Steps You Can Take Toward Financial Success

Please send me the brochure **"Establishing Good Credit"**  
(Indicate the quantities you require in the boxes to the right.)  
*Limit: 100 copies, per language, per agency*

English

Spanish

Please send me the training manual **"Questions & Answers About Good Credit"**  
(Indicate the quantity you require in the box to the right.)  
*Limit: 10 copies, per language, per agency*

English

Send these materials to:

Name: \_\_\_\_\_

Agency: \_\_\_\_\_

Address (no P.O. Box, please): \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Return this order form to: Consumer Action, 116 New Montgomery St., Suite 233, San Francisco, CA 94105  
Or you can fax it to: (415) 777-5267

Need a copy of our NCRC newsletter for a colleague? Call Consumer Action at: (415) 777-9648

Note: this Consumer Action series on the importance of good credit was made possible with funding from Sprint and in sponsorship with SER-Jobs for Progress, a national job training organization.



# Consumer Action's National Consumer Resource Center

## NCRC Order Form

Current through February 1997

Please return order form to: Consumer Action, 116 New Montgomery St., Suite 233, San Francisco, CA 94105  
Phone: (415) 777-9648 or (800) 999-7981 TTY: (415) 777-9456 Fax: (415) 777-5267

Name of Contact Person \_\_\_\_\_ Title \_\_\_\_\_  
 Agency \_\_\_\_\_ Phone \_\_\_\_\_ Fax \_\_\_\_\_  
 Address (no P.O. Box) \_\_\_\_\_ E-mail Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Order Date \_\_\_\_\_

Consumer Action (CA) is a nonprofit education and advocacy organization founded in 1971. Its National Consumer Resource Center (NCRC) supplies free bulk orders of educational materials to community agencies, for distribution to their clients. NCRC publications are available in a variety of languages. For more information, contact CA at (800) 999-7981, or the address above.

**How to Use This Form** Enter the number of copies you desire for each language in the corresponding boxes. *Sample:*

English	Spanish	Chinese	Korean	Vietnamese	Russia
100	100	80	50	75	25

The ★ indicates that we are out of stock for that language version. However, if you circle the ★ we will send you a camera-ready original that you can use to make your own copies.

## Telephone Publications

Limit 100 copies per language

### Phone Fraud

A brochure that describes what phone fraud is and how you can become a victim. Explains how to protect yourself and how to complain about phone fraud.

English	Spanish	Chinese	Korean	Vietnamese	Russia
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	★	<input type="checkbox"/>	★

### Using the Services of Operators

A brochure that describes how phone operators provide information and assistance to help people complete calls. Explains that dialing direct, without operator assistance, can save you money.

English	Spanish	Chinese	Korean	Vietnamese	Russia
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	★	★

### Calling All Over the World

A brochure that describes how to dial an international call. Discusses the cost of calling to other countries and how to save money.

English	Spanish	Chinese	Korean	Vietnamese	Russia
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Getting Help in an Emergency: Dial 9-1-1

A brochure that explains how and when to call 9-1-1 to obtain immediate help during an emergency.

English	Spanish	Chinese	Korean	Vietnamese	Russia
<input type="checkbox"/>	★	★	★	★	★

# More Telephone Publications

Limit 100 copies per language

## Public Phone Tips: Reaching Your Long Distance Company

A brochure that explains how to complete long distance calls from pay phones and hotel and hospital room phones.

English	Spanish	Chinese	Korean	Vietnamese
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	★	<input type="checkbox"/>

## Preventing Telemarketing Fraud

A brochure that describes how con artists cheat people over the phone, and gives tips to avoid being a victim of fraud.

English	Spanish	Chinese	Korean	Vietnamese
★	★	★	<input type="checkbox"/>	★

## Making Local Calls from Private Pay Phones (California only)

A factsheet that gives details on dialing and paying for local calls, how to reach operator assistance, making emergency calls, obtaining refunds and how to resolve consumer complaints.

English	Spanish	Chinese	Korean	Vietnamese
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Laotian	Tagalog	Cambodian		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

## Making Long Distance Calls from Private Pay Phones (California only)

A factsheet that explains how to reach your long distance carrier through private pay phones, information on dialing and paying the long distance calls, obtaining refunds and how to resolve consumer complaints.

English	Spanish	Chinese	Korean	Vietnamese
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Laotian	Tagalog	Cambodian		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

## Problems with a private pay phone? (poster) (California only)

A letter-size poster that explains where to complain about problems with a private pay phone.

English
<input type="checkbox"/>

# Banking Publications

Limit 100 copies per language

## Saving Money on Credit Cards

A brochure that describes what to look for in shopping for a credit card. Explains how credit card charges are calculated

English	Spanish	Chinese	Korean	Vietnamese
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Preventing Credit Card Fraud

A brochure that describes how crooks steal and use credit cards and card numbers, and explains how to protect your card.

English	Spanish	Chinese	Korean	Vietnamese
<input type="checkbox"/>	★	★	<input type="checkbox"/>	★

## Understanding Credit Card Costs

A brochure that explains how interest and fees are calculated, and gives tips on reducing finance charges.

English	Spanish	Chinese	Korean	Vietnamese
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Don't Be Fooled by Misleading "Credit Repair" Claims!

A brochure that describes what to do about inaccurate information in your credit report or a poor credit history, what to beware of and where to get help.

English	Spanish	Chinese	Korean	Vietnamese
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Risk and Rewards

A brochure that describes what are some investment products available in banks, what are the risks and costs involved, and what to do if you have a problem.

Limit 100 copies per language

English	Spanish	Chinese	Korean	Vietnamese
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Managing Your Debts: How to Regain Financial Health

A brochure that describes how to improve your relationships with creditors, reduce your debts and manage your money.

English	Spanish	Chinese
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Consumer Action's 1996 Retail Credit Card Survey

A survey of 62 department and chain stores nationwide that compares the interest rates on their own credit cards. It also provides tips and insights on using retail credit cards.

English (Limit 50 copies)

## Health & Safety Publications

### Proper Handling of Hazardous Materials

A flyer that gives safety advice on how to deal with flammable liquids and chemical spills.

English	Spanish	Chinese
★	<input type="checkbox"/>	<input type="checkbox"/>

### Avoiding Accidents Through Planning, Preparation

A flyer that gives advice on how to avoid workplace injuries through proper planning.

English	Spanish	Chinese
★	<input type="checkbox"/>	<input type="checkbox"/>

### Secondhand Smoke:

A colorful brochure/poster that describes what second-hand smoke is and its health implications.

Spanish	Chinese
<input type="checkbox"/>	<input type="checkbox"/>

## Other Consumer Publications

### California Consumer Services Guide (1996)

A 32-page guide that includes hundreds of government offices, industry associations, media action lines and non-profit consumer groups that provide assistance to individuals with their consumer problems and questions.

Limit 5 copies only

English
<input type="checkbox"/>

### 66 Ways to Save Money

A brochure that provides 66 concrete steps consumers can take to save money or prevent frauds under the topics of transportation, insurance, banking, housing and utilities.

Limit 100 copies

English	Spanish
<input type="checkbox"/>	<input type="checkbox"/>

Funding for publication and distribution of these materials has been provided by:

AMERICAN EXPRESS, AT&T, AT&T UNIVERSAL CARD SERVICES CORP., COPT ENFORCEMENT GROUP, EPA, GREAT WESTERN, KEMPER INSURANCE, MCL, NATIONAL CONSUMER LITERACY CONSORTIUM, NYNEX, SPRINT and VISA.

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 Entered in DB \_\_\_\_\_ Partial \_\_\_\_\_ Order Number \_\_\_\_\_



# SERVICES

*Consumer Action offers its clients and partners a wide range of services:*

## **Writing**

CA's writers will produce easy-to-read fact sheets to help consumers make informed choices on shopping for and using goods and services. CA's award-winning publications are written and reviewed by staff members with more than two decades of experience in the consumer protection field.

## **Editing**

Our staff will review and edit your own consumer education materials for clarity and accuracy, ensuring that they are "user friendly" and readily accepted by your customers.

## **Translation**

CA works with experienced translators who can be trusted to accurately convey the meaning and tone of the original English publication.

## **Design**

We use state-of-the-art graphics, pagination and scanning software to design and format publications.

## **Electronic Publication**

Our systems staff has the skills and the cutting edge software necessary for posting materials in Roman and non-Roman languages on the Internet. CA's future Web site will offer "one-stop shopping" for consumer information on the Internet.

## **Publishing**

CA can provide your organization with publications in a variety of languages and formats.

## **Distribution**

Educational publications produced in partnership with corporate sponsors are included in CA's Na-

tional Consumer Resource Center, a consumer library which handles requests for the free distribution of more than one million pieces of literature each year from its national network of community-based organizations.

## **Publicity & Promotion**

CA's extensive experience in creating effective publicity materials and in producing in-language media campaigns helps to ensure that materials reach the minority and mainstream media.

## **Consultation**

Our 25 years of educational and advocacy work make CA uniquely qualified to provide your organization with advice on issues affecting consumers, especially low income, minority, immigrant, disabled and senior populations. CA staff members who work in these communities will review your materials, evaluate your consumer outreach programs and help you design new and effective ways to reach current and new customers.

Consumer Action is proud to have produced educational materials in partnership with the following organizations:

- American Express
- AT&T
- Bank of America
- California Public Utilities Commission
- GTE California
- Great Western Bank
- The Federal Reserve System
- MCI
- Pacific Bell
- Sprint
- U.S. Environmental Protection Agency
- Visa USA, Inc.

For information contact:  
Ken McEldowney, Executive Director,  
at (415)-777-9648.

# CONSUMER ACTION

*'The Source for  
Multilingual Consumer  
Education'*

## MULTILINGUAL SERVICES

- Writing
- Editing
- Translation
- Publishing
- Distribution
- Publicity & Promotion
- Consultation

116 New Montgomery, Suite 233  
San Francisco, CA 94105  
(415) 777-9648

# YOUR PARTNER IN EDUCATION

Changing demographics have created a new and exciting marketplace in the U.S.—one in which not all participants speak the same language. Your company can benefit from putting consumer education materials in the hands of all consumers including non-English speakers, and Consumer Action (CA) can help you do that.

CA offers its assistance to organizations to create multilingual consumer publications and outreach programs. We can translate and reproduce educational materials in any language and distribute them to consumers through a unique national network of community-based agencies that are familiar with the groups you want to reach.

CA has extensive experience in partnering with corporations and government agencies to provide them with a wide range of professional services, including writing, translating, publicity and distribution. Working with major national corporations and government agencies, CA has created effective education and outreach projects targeting all consumers.

CA's multilingual consumer education publications produced in partnership with corporate clients provide concise, unbiased information on shopping for and making the best use of a variety of products and services. The support of its corporate partners allows CA to disseminate its materials at no charge to individuals and organizations.

## ABOUT CONSUMER ACTION

From its roots as a San Francisco-based organization, CA has grown to national prominence, specializing in banking, credit, finance and telecommunications issues. Recently, CA's focus has expanded to include insurance, health care, vehicle safety, utilities deregulation, and the dangers of lead poisoning and second-hand smoke, among many other topics of concern to consumers.

CA is a pioneer in publishing consumer education materials in many languages, including Cambodian, Chinese, English, Hmong, Korean, Laotian, Russian, Spanish and Vietnamese.

To distribute these materials, CA has established a national network of more than 2,500 community-based organizations nationwide. They include social service agencies, credit counseling bureaus, shelters, libraries, schools, community facilities and independent living

and senior centers. This network presents a particularly effective and efficient way to get vital information into the hands of low income, minority, immigrant, disabled and senior consumers.

CA also reaches consumers through electronic publishing, and has developed a way to make materials in non-Roman languages available for downloading from the Internet.

Our longstanding reputation as an independent expert source on consumer issues and problems has enabled us to garner frequent coverage in the media. The organization is in a unique position to publicize the materials it produces with corporate partners. Our media campaigns for all new publications offer a cost-effective and wide-reaching way to spread information about these free educational materials in the mainstream and in-language media.

Stories about CA's work have recently appeared in national magazines such as *Kiplinger's*, *Worth*, *Smart Money*, *U.S. News & World Report* and many others. Daily newspaper coverage has included *The Los Angeles Times*, *The Washington Post* and *The Miami Herald*.

In-language coverage has included articles in *La Opinion*, *Tu Mundo*, *Sing Tao Daily*, and *Korean Times*.

**WELCOME TO THE  
NATIONAL FRAUD INFORMATION CENTER  
OUR TOLL FREE NUMBER IS 1-800-876-7060**

**NFIC logo along side scam guy on the telephone**

[Click here for the NFIC Daily Report](#)

**To Call From Canada and Puerto Rico, use the toll free number.**

**To call from other countries, dial your international access code + 1-202-835-0159**

**WHEN YOU CALL,**

**PLEASE MENTION THAT YOU VISITED OUR WEB SITE.**

- 
- **READ THE INTERNET FRAUD WATCH DAILY REPORT**
  - **REPORT TELEMARKETING FRAUD & SUSPICIOUS INTERNET ACTIVITY**
  - **LEARN HOW TO PROTECT YOURSELF AND PERSONAL FINANCIAL INFORMATION BELONGING TO YOU**
  - **BROWSE THROUGH ARCHIVED IFW DAILY REPORTS**
  - **CONNECT WITH OTHER AGENCIES ON THE INTERNET**
  - **MEDIA INFORMATION**
  - **SPECIAL INFORMATION PAGE FOR SENIOR CITIZENS**
  - **CHECK OUT THE NFIC SPECIAL ALERT ON 809 AND INTERNATIONAL PHONE SCAMS**

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**A PROJECT OF  
THE NATIONAL CONSUMERS LEAGUE**

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**THIS PROJECT WORKS IN COOPERATION WITH**

**THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL****THE FEDERAL TRADE COMMISSION****PROJECT PHONEBUSTERS, CANADA****INTERNET FRAUD WATCH**

**The National Consumers League is thankful for grants from MasterCard International and NationsBank so we can provide this service to consumers.**

**WHAT IS THE NATIONAL FRAUD INFORMATION CENTER?**

The National Fraud Information Center is a project of the National Consumers League, America's oldest nonprofit consumer organization. NFIC helps consumers report fraud and offers helpful advice on how to avoid becoming a victim. Incident reports are entered in the NFIC database and referred electronically to the National Electronic Fraud Database administered by the Federal Trade Commission and the National Association of Attorneys General. NFIC incident reports are also referred to a variety of federal and state regulatory and enforcement agencies - the FBI, Secret Service, U S Postal Inspectors, Securities and Exchange Commission, and US Attorneys. The National Fraud Information Center is underwritten by corporate sponsors: MCI Telecommunications, AT&T, MasterCard, Visa, AT&T Universal Card Services, Citibank Visa & MasterCard, American Express, Federal Express and the NYNEX Foundation. Internet Fraud Watch is underwritten by grants from MasterCard International and NationsBank.

tiny nfic logo

**CHECK US OUT.** NFIC is available to help you if you have questions about consumer fraud. We are also available to help you if you believe you are a victim of fraud. Internet and online service users who observe suspicious activity are also encouraged to contact the National Fraud Information Center.

tiny nfic  
logo

**STOP FRAUD.** Report to us if you are a victim. Let us know if you notice suspicious activity involving commercial transactions. Be wary of "get-rich-quick" and "easy money" schemes advertised in newsgroups.

tiny nfic  
logo

**CHECK THIS WEBSITE** for daily alerts on new scams and helpful hints on how to avoid fraud. Look here for help on how to complete transactions on the Internet safely and with confidence.

**NFIC Daily Reports****NFIC Special Alert - 809 Scams****Special Information for Seniors**



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## INTERNET FRAUD WATCH

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### READ OUR SPECIAL HOLIDAY ALERT

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### Safe Shopping Tips:

#### How to avoid Telemarketing Fraud

- Know the company with which you plan to do business.
- A reputable company will be pleased to send you information. A fraudulent promotion often requires an immediate response.
- Never reveal account numbers, partial account numbers, or any other personal identification to strangers, especially over the phone.
- Never send cash by private carrier.
- Required overnight delivery of checks or money orders is an indication of fraud. Frauds which use the mail are investigated by federal agents.
- Never pay up-front fees for services which normally operate on a commission basis or charge interest. Employment agencies, real estate agents, and travel agents generally operate on a commission basis. Lenders charge interest rates.
- When anyone tells you that you have won a prize, hold on to your money. Any time you are told you have won a prize and have to pay money, refuse the prize.

#### Now It's Illegal (The New Telemarketing Sales Rule)

- For a telemarketer to call after you have asked not to be called.
- For a telemarketer to call you after 9 p.m., and before 8 a.m.
- For telemarketers to neglect to tell you promptly, at the beginning of the call, the company name and what they are selling. If it's a prize promotion, the caller must tell you that no purchase or payment is necessary to win.
- For a telemarketer to misrepresent anything about the offer.
- For a telemarketer to ask you for payment before telling you the total cost of goods, whether a sale is final, the odds of winning a prize, and any restrictions on getting the prize.
- For a telemarketer to withdraw money from your checking account without getting your verifiable permission in advance. The new regulation gives you the right to request a written form outlining all conditions of such withdrawals before you agree. NEVER give verbal authorization or disclose your

checking account number over the phone.

- For a credit repair service or loan promotion to request a fee before providing the service. Firms that offer to recover your losses or get your money back cannot charge an upfront fee for doing so.

These are just some of the requirements of the new Telemarketing Sales Rule - federal regulations designed to protect you against deceptive and fraudulent telephone marketing practices. Report any violations IMMEDIATELY to the National Fraud Information Center at 1-800-876-7060. The Telemarketing Sales Rule is enforced by the Federal Trade Commission.

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## SAFE SHOPPING ON THE INTERNET AND ONLINE SERVICES

**Tips on how to avoid problems when using the Internet or online services for purchase of information, products, or services.**

Fraudulent commercial activity on the Internet and "online" services is not yet a major problem. However, as use of the Internet expands, there is certain to be a major increase in deceptive and misleading promotions, bogus travel offers, contests, lotteries, and other illegal practices. The National Consumers League, Federal Trade Commission and the National Association of Attorneys General have joined together in a unique partnership to keep the Internet crime free. MasterCard International, a founding sponsor of the National Fraud Information Center, has awarded major funding to the Center to create an electronic fraud database for Internet complaints, assist users and subscribers in reporting suspicious activity, and alert on line consumers to common sense steps they can take to avoid fraud. Here are some tips when using the Internet or on line services to make purchases.

- Never disclose checking account numbers, credit card numbers, or other personal financial data at any web site or on line service location - unless you are sure that you know where this information will be directed. Call NFIC's toll free number or send us e-mail to get assistance, advice, or further information.
- When you subscribe to an on line service you may be asked for credit card information. When you enter any interactive service site, however, beware of con artists who may ask you to "confirm" your enrollment in the service by disclosing passwords or the credit card account number used to subscribe.
- Use the same common sense you would exercise with any off line, personal, or telephone credit card purchase. Always know who you are dealing with. A flashy professional Internet web site does not guarantee that the sponsor is legitimate.
- Report anything suspicious you see on the Internet or any on line service location. The NFIC toll free number is the best place to report such activity, but you may also send us e-mail through our Internet site or write to us, c/o P O Box 65868, Washington, DC 20035. Complaints may also be forwarded directly to the FTC or to your state attorney general.

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**Contact the National Fraud Information Center at 1-800-876-7060**

*Trained counselors are available to assist you from 9 a.m. to 5 p.m. each day.  
AFTER HOURS, send us e-mail.*



## THE INTERNET FRAUD WATCH PROJECT

# CONTACTING OTHER AGENCIES ONLINE

This service is provided by the National Consumers League in cooperation with the National Association of Attorneys General and The Federal Trade Commission to assist federal and state law enforcement agencies to gather complaints about online fraud and take appropriate enforcement action. Our goal: a safe and crime-free Internet.

The Federal Trade Commission administers the Telemarketing Sales Rule and serves as the major federal civil enforcement and regulatory authority protecting the marketplace. To find out more information about the Federal Trade Commission or to access any of the many consumer education publications available online from them, click here: [FTC](#) or [FTC Publications](#).

### FEDERAL WEB SITES:

<a href="#">Commodity Futures Trading Commission</a>	<a href="#">Federal Communications Commission</a>
<a href="#">Consumer Information Center</a>	<a href="#">Federal Deposit Insurance Corp.</a>
<a href="#">Department of Housing and Urban Development</a>	<a href="#">Federal Trade Commission</a>
<a href="#">Department of Justice</a>	<a href="#">Food &amp; Drug Administration</a>
<a href="#">Environmental Protection Agency</a>	<a href="#">International Trading Commission</a>
<a href="#">Federal Bureau of Investigation</a>	<a href="#">Securities &amp; Exchange Commission</a>
<a href="#">FBI, National Computer Crime Squad</a>	<a href="#">United States Postal Service</a>

The nation's 50 state Attorneys General are also responsible for protecting the public against fraudulent and deceptive telemarketers and others who prey on unsuspecting victims. Several of them have their own web sites and can provide you with specific information on their activities.

### ATTORNEYS GENERAL:

<p><i>Attorney General State of <u>Alabama</u> 11 South Union St. Montgomery AL 36103</i></p>	<p><i>Attorney General State of <u>Montana</u> Justice Building 215 N. Sanders Helena MT 59620-1401</i></p>
<p><i>Attorney General State of <u>Alaska</u> State Capitol PO Box 110300 Juneau AK 99811-0300</i></p>	<p><i>Attorney General State of <u>Nebraska</u> State Capitol PO Box 98920 Lincoln NE 68509</i></p>
<p><i>Attorney General State of <u>Arizona</u> 1275 W Washington St. Phoenix AZ 85007</i></p>	<p><i>Attorney General State of <u>Nevada</u> 198 S. Carson Capitol Complex Carson City NV 89710</i></p>
<p><i>Attorney General State of <u>Arkansas</u> Tower Building 323 Center St. Little Rock AR 72201-2610</i></p>	<p><i>Attorney General State of <u>New Hampshire</u> State House Annex 25 Capitol St. Concord NH 03301-6397</i></p>
<p><i>Attorney General State of <u>California</u> 1515 K St. Sacramento CA 95814</i></p>	<p><i>Attorney General State of <u>New Jersey</u> Richard J. Hughes Justice Complex 25 Market St. CN 080 Trenton NJ 08625</i></p>
<p><i>Attorney General State of <u>Colorado</u> Department of Law 1525 Sherman St. Denver CO 80203</i></p>	<p><i>Attorney General State of <u>New Mexico</u> PO Drawer 1508 Santa Fe NM 87504-1508</i></p>
<p><i>Attorney General State of <u>Connecticut</u> 55 Elm St. Hartford CT 06106</i></p>	<p><i>Attorney General State of <u>New York</u> 120 Broadway New York NY 10271</i></p>
<p><i>Attorney General State of <u>Delaware</u> Carvel State Office Building 820 N French St. Wilmington DE 19801</i></p>	<p><i>Attorney General State of <u>North Carolina</u> Department of Justice PO Box 629 Raleigh NC 27602-0629</i></p>
<p><i>Office of the Corporation Counsel District of <u>Columbia</u> 414 4th St. NW Washington DC 20001</i></p>	<p><i>Attorney General State of <u>North Dakota</u> State Capitol 600 East Boulevard Ave. Bismarck ND 58505-0040</i></p>



<p>Attorney General State of <u>Florida</u> The Capitol, PL 01 Tallahassee FL 32399-1050</p>	<p>Attorney General State of <u>Ohio</u> State Office Tower 30 East Broad St. Columbus OH 43266-0410</p>
<p>Attorney General State of <u>Georgia</u> 40 Capitol Square SW Atlanta GA 30334-1300</p>	<p>Attorney General State of <u>Oklahoma</u> State Capitol 2300 N Lincoln Blvd., Room 112 Oklahoma City OH 73105</p>
<p>Attorney General State of <u>Hawaii</u> 425 Queen St. Honolulu HI 96813</p>	<p>Attorney General State of <u>Oregon</u> Justice Building 1162 Court St. NE Salem OR 97310</p>
<p>Attorney General State of <u>Idaho</u> PO Box 83720 Boise ID 83720-0010</p>	<p>Attorney General State of <u>Pennsylvania</u> Strawberry Square Harrisburg PA 17120</p>
<p>Attorney General State of <u>Illinois</u> J.R. Thompson Center 100 W Randolph St. Chicago IL 60601</p>	<p>Attorney General State of <u>Rhode Island</u> 72 Pine St. Providence RI 02903</p>
<p>Attorney General State of <u>Indiana</u> 219 State House Indianapolis IN 46204</p>	<p>Attorney General State of <u>South Carolina</u> Rembert C. Dennis Office Building PO Box 11549 Columbia SC 29211-1549</p>
<p>Attorney General State of <u>Iowa</u> Hoover State Office Building Des Moines IA 50319</p>	<p>Attorney General State of <u>South Dakota</u> 500 E Capitol Pierre SD 57501-5070</p>
<p>Attorney General State of <u>Kansas</u> Judicial Building 301 W 10th St. Topeka KS 66612-1597</p>	<p>Attorney General State of <u>Tennessee</u> 450 James Robertson Parkway Nashville TN 37243-0495</p>
<p>Attorney General State of <u>Kentucky</u> State Capitol, Room 116 Frankfort KY 40601</p>	<p>Attorney General State of <u>Texas</u> Capitol Station PO Box 12548 Austin TX 78711-2548</p>

<p><i>Attorney General State of <u>Louisiana</u> Department of Justice PO Box 94005 Baton Rouge LA 70804-4095</i></p>	<p><i>Attorney General State of <u>Utah</u> State Office Building Salt Lake City UT 84114</i></p>
<p><i>Attorney General State of <u>Maine</u> State House Building Augusta ME 04333</i></p>	<p><i>Attorney General State of <u>Vermont</u> 109 State Street Montpelier VT 05609-1001</i></p>
<p><i>Attorney General State of <u>Maryland</u> 200 Saint Paul Place Baltimore MD 21202-2202</i></p>	<p><i>Attorney General State of <u>Virginia</u> Supreme Court Building 101 North Eighth Street, 5th Floor Richmond VA 23219</i></p>
<p><i>Attorney General State of <u>Massachusetts</u> 1 Ashburton Place Boston MA 02108-1698</i></p>	<p><i>Attorney General State of <u>Washington</u> PO Box 40100 905 Plum Street, Building 3 Olympia WA 98504-0100</i></p>
<p><i>Attorney General State of <u>Michigan</u> PO Box 30212 525 W Ottawa Street Lansing MI 48909-0212</i></p>	<p><i>Attorney General State of <u>West Virginia</u> State Capitol Charleston WV 25305-0070</i></p>
<p><i>Attorney General State of <u>Minnesota</u> State Capitol Suite 102 St. Paul MN 55155</i></p>	<p><i>Attorney General State of <u>Wisconsin</u> State Capitol PO Box 7857 Madison WI 53707-7857</i></p>
<p><i>Attorney General State of <u>Mississippi</u> Department of Justice PO Box 220 Jackson MS 39205-0220</i></p>	<p><i>Attorney General State of <u>Wyoming</u> State Capitol Building Cheyenne WY 82002</i></p>
<p><i>Attorney General State of <u>Missouri</u> Supreme Court Building 207 W High St. Jefferson City MO 65102</i></p>	

**OTHER STATE & LOCAL RESOURCES:**

<u>Cambridge Consumers' Council</u>	<u>Minnesota Consumer Protection Office</u>
<u>Contact Center Network</u>	<u>New Hampshire Consumer Protection Office</u>
<u>Florida Department of Law Enforcement</u>	<u>Oklahoma Securities Commission</u>
<u>Florida State Comptroller's Office</u>	<u>Oregon Department of Consumer &amp; Business Services</u>
<u>Irvine, CA, Police Department</u>	<u>Phoenix, AZ, Police Department</u>
<u>Jacksonville, FL, Consumer Affairs Office</u>	

**CANADIAN RESOURCES:**

<u>Canada - Royal Canadian Mounted Police/Gendarmerie royal du Canada</u>
<u>Canada - Department of Justice</u>
<u>New Brunswick - Department of Justice (English Only)</u>
<u>Newfoundland &amp; Labrador - Department of Justice (English Only)</u>
<u>Nova Scotia - Department of Justice (English Only)</u>
<u>Ontario - Ministry of the Attorney General (French &amp; English)</u>
<u>Quebec - Ministry of Justice (French Only)</u>
<u>Saskatchewan - Department of Justice (English Only)</u>

**INTERNATIONAL RESOURCES:**

<u>Argentina - Ministry of Justice</u>
<u>Australia - Attorney General</u>
<u>Australia - Australian Capital Territory Attorney General (plus list of Australian Legal Resources)</u>
<u>Peru - Ministry of Justice</u>
<u>Singapore - Department of Justice</u>
<u>Sweden - Department of Justice</u>

For Internet and other computer security policy issues and information, contact the National Computer Security Association.

For information on credit issues, contact the Bankcard Holders of America.

For information on charities, contact the National Charities Information Bureau.

For information on privacy issues, contact the Privacy Rights Clearinghouse.

For information on the securities industry, contact the National Association of Securities Dealers Regulation

[More About Us](#) | [Fact Sheets](#) | [Other PRC Resources](#) | [Privacy Links](#)  
[New Privacy Rights Issues](#) | [Cases](#) | [E-mail](#)

**The Privacy Rights Clearinghouse (PRC) has recently separated from the University of San Diego. We are now affiliated with a San Diego non-profit consumer organization, the Utility Consumers' Action Network (UCAN). The PRC's address, phone numbers and Web site addresses have changed as of December 1996. We will keep you posted on new developments.**

**The PRC offers consumers a unique opportunity to learn how to protect their personal privacy. Its publications provide in-depth information on a variety of informational privacy issues, as well as practical tips on safeguarding personal privacy. The PRC also operates a telephone hotline for those who seek information about privacy issues. It is the only endeavor of its kind in the nation.**

**The PRC was established with funding from the Telecommunications Education Trust, a program of the California Public Utilities Commission. Fact sheets 1 through 19 were developed under the auspices of the University of San Diego, which administered the PRC from its inception in 1992 to October 1996.**

**More about the Privacy Rights Clearinghouse**

**Fact Sheets**

**Other PRC Resources**

**Cases From the PRC Hotline**

**Links** (other privacy resources)

**New Privacy Rights Issues**

# English Fact Sheets

1. Privacy Survival Guide
  2. Wireless Communications: Cordless/Cellular Phones and Pagers
  3. How to Put an End to Harassing Phone Calls
  4. Junk Mail: How Did They All Get My Address?
  5. Telemarketing: Whatever Happened to a Quiet Evening at Home?
  6. How Private Is My Credit Report?
  7. Employee Monitoring: Is There Privacy in the Workplace?
  8. How Private Is My Medical Information?
  9. Wiretapping and Eavesdropping: Is There Cause for Concern?
  10. My Social Security Number: How Secure Is It?
  11. From Cradle to Grave: Government Records and Your Privacy
  12. A Checklist of Responsible Information-Handling Practices
  14. Are You Being Stalked? Tips For Your Protection
  15. Paying By Credit Card or Check: What Can Merchants Ask?
  16. Employment Background Checks: A Jobseeker's Guide
  17. Coping with Identity Theft: What to Do When an Imposter Strikes
  18. Privacy in Cyberspace: Rules of the Road for the Information Superhighway
  19. Caller ID and My Privacy: What Do I Need to Know?
- 

## ***Other Publications:***

**A.**

Privacy Reminder "Merchant Card" (indicates merchants' limits to your personal information under California law when you pay by check or credit card)

**B.**

Annual Reports: 1992/1993 and 1993/94

**To order, please call the Hotline.**



**Fact Sheet # 17: Copying with Identity Theft: What To Do When An Imposter Strikes**

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May 1995/Revised July 1996.

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**Privacy Rights Clearinghouse**

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## **Coping With Identity Theft: What To Do When An Imposter Strikes**

It can happen to anyone. The phone rings and a collection agency demands that you pay past-due accounts for merchandise you never ordered. The supermarket refuses your checks because you have a history of bouncing them. But you have a perfect record and always pay bills on time. What has happened?

The crime of identity theft is on the rise. Using a variety of methods, criminals steal credit card numbers, driver's license numbers, Social Security numbers, ATM cards, telephone calling cards and other key pieces of individuals' identities. They use this information to impersonate their victims, spending as much money as they can in as short a time as possible before moving on to someone else's name and account information.

Generally, victims of credit and banking fraud will be liable for no more than the first \$50 of the loss. (15 USC 1643) In many cases, the victim will not be required to pay any part of the loss. (The victim must notify financial institutions within two days of learning of the loss, although this is often waived.)

Even though victims are usually not saddled with paying their imposters' bills, they are often left with a bad credit report and must spend months and even years regaining their financial health. In the meantime, they have difficulty writing checks, obtaining loans, renting apartments, and even getting hired. Victims of identity theft find almost no help from the authorities as they attempt to untangle the web of deception that has allowed another person to impersonate them.

Stealing wallets used to be the best way identity thieves obtained credit card numbers and other pieces of identification. Now more sophisticated means are commonly used:

- accessing your credit report fraudulently, for example, by posing as an employer, loan officer or landlord and ordering a copy;
- "shoulder surfing" at ATM machines and phone booths in order to capture PIN numbers;
- stealing mail from mailboxes to obtain newly issued credit cards, bank and credit card statements, pre-approved credit offers, or tax information;

- "dumpster diving" in trash bins for unshredded credit card and loan applications

### **Take these preventive steps to minimize your losses in case of identity theft:**

#### **Reducing access to your personal data:**

1. To minimize the amount of information a thief can steal, do not carry extra credit cards, your Social Security card, birth certificate or passport in your wallet or purse, except when needed.
2. To reduce the amount of personal information that is "out there," consider the following:
  - Remove your name from the marketing lists of the three credit-reporting bureaus--Equifax, Experian (formerly TRW) and Trans Union. This will limit the number of pre-approved offers of credit that you receive. These, when tossed into the garbage, are a potential target of identity thieves who use them to order credit cards in your name. (See addresses and phone numbers at the end of fact sheet.)
  - Sign up for the Direct Marketing Association's Mail Preference Service and the Telephone Preference Service. Your name is added to computerized name deletion lists used by nationwide marketers.
  - Have your name and address removed from the phone book and reverse directories. (See PRC fact sheet no. 4 on tips for reducing junk mail.)
3. Install a locked mailbox at your residence to reduce mail theft. Or use a post office box.
4. When you order new checks, do not have them sent to your home's mailbox. Pick them up at the bank instead.
5. When you pay bills, do not leave the envelopes containing your checks at your mailbox for the postal carrier to pick up. If stolen, your checks can be altered and then cashed by the imposter. It is best to mail bills and other sensitive items at the post office rather than neighborhood drop boxes.

#### **Credit cards:**

6. Reduce the number of credit cards you actively use to a bare minimum. Carry only one or two of them in your wallet. Cancel all unused accounts. Even though you do not use them, their account numbers are recorded in your credit report which is full of data that can be used by identity thieves.
7. Keep a list or photocopy of all your credit cards, the account numbers, expiration dates and telephone numbers of the customer service and fraud departments in a secure place (not your wallet or purse) so you can quickly contact your creditors in case your cards have been stolen. Do the same with your bank accounts.
8. Never give out your credit card number or other personal information over the phone unless you have a trusted business relationship with the company and you have initiated the call. Identity thieves have been known to call their victims with a fake story that goes something like this. "Today is your lucky day! You have been chosen by the Publishers Consolidated Sweepstakes to receive a free trip to the Bahamas. All we need is your credit card number and expiration date to verify you as the lucky winner."
9. Order your credit report once a year from each of the three credit bureaus to check for inaccuracies and fraudulent use of your accounts.
10. Always take credit card receipts with you. Never toss them in a public trash container.

11. Watch the mail when you expect a new or reissued credit card to arrive. Contact the issuer if the card does not arrive.

### **Passwords and PINS:**

12. When creating passwords and PINs (personal identification numbers), do not use the last four digits of your Social Security number, your birthdate, middle name, pet's name, consecutive numbers or anything else that could easily be discovered by thieves.

13. Ask your financial institutions to add extra security protection to your account. Most will allow you to use an additional code (a number or word) when accessing your account. Do not use your mother's maiden name, as that is all too easily obtained by identity thieves.

14. Memorize all your passwords. Don't record them on anything in your wallet or purse.

15. Shield your hand when using a bank ATM machine or making long distance phone calls with your phone card. "Shoulder surfers" may be nearby with binoculars or video camera.

### **Social Security numbers:**

16. Protect your Social Security number (SSN). Release it only when absolutely necessary (like tax forms, employment records, most banking, stock and property transactions). The SSN is the key to your credit and banking accounts and is the prime target of criminals.

If a business requests your SSN, ask if it has an alternative number which can be used instead. Speak to a manager or supervisor if your request is not heeded. Ask to see the company's policy on SSNs. If necessary, take your business elsewhere. If the SSN is requested by a government agency, look for the Privacy Act notice. This will tell you if your SSN is required, what will be done with it, and what happens if you refuse to provide it. (See PRC fact sheet no. 10 for more information on SSNs.)

17. Do not have your SSN printed on your checks. Don't let merchants hand-write it onto your checks because of the risk of fraud. There is no law against this, so you may need to be assertive.

18. Order your Social Security Earnings and Benefits Statement once a year to check for fraud.

### **Responsible information handling:**

19. Carefully review your credit card statements and phone bills, including cellular phone bills, for unauthorized use. (For more information on cell- phone fraud, see PRC fact sheet no. 2.)

20. Do not toss pre-approved credit offers in your trash or recycling bin without first tearing them into small pieces or shredding them. They can be used by "dumpster divers" to order credit cards in your name and mail them to their address. Do the same with other sensitive information like credit card receipts, phone bills and so on. Home shredders can be purchased in many office supply stores.

21. Demand that financial institutions adequately safeguard your data. Discourage your bank from using the last four digits of the SSN as the PIN number they assign to customers. Insist that banks remove account numbers from ATM slips (many have already done so). Also insist they shred all paper records before discarding them. By not adopting responsible information-handling practices, they put their customers at risk for fraud.



22. When you fill out loan or credit applications, find out how the company disposes of them. If you are not convinced that they store them in locked files and/or shred them, take your business elsewhere. Some auto dealerships, department stores, car rental agencies, and video stores have been known to be careless with customer applications.

When you pay by credit card, ask the business how it stores and disposes of the transaction slip. Avoid paying by credit card if you think the business does not use adequate safeguards.

23. Store your canceled checks in a safe place. In the wrong hands, they could reveal a lot of information about you, including the account number, your phone number and driver's license number. Never permit your credit card number to be written onto your checks. It's a violation of California law (California Civil Code 1725) and puts you at risk for fraud.

24. Any entity which handles personal information should train all its employees, from top to bottom, on responsible information-handling practices. Persuade the companies, government agencies, and nonprofit agencies with which you are associated to adopt privacy policies and conduct privacy training. Employees should be trained to check picture ID cards when accepting credit cards. (See PRC fact sheet no. 12, "Checklist of Responsible Information-Handling Practices.")

**If you become the victim of identity theft, it is important to act immediately to stop the thief's further use of your identity.**

1. Report the crime to the police immediately. Give them as much documented evidence as possible. Get a copy of your police report. Credit card companies, your bank, and the insurance company may require you to show the report in order to verify the crime. Some police departments have been known to refuse to write police reports on such crimes. Be persistent!

2. Immediately call all your credit card issuers. Get replacement cards with new account numbers. Ask that the old accounts be processed as "account closed at consumer's request." (This is better than "card lost or stolen," because when this statement is reported to the credit bureaus, it can be interpreted as blaming you for the loss.) Follow-up in writing. This protects you in case of a dispute with the credit card issuer.

3. Call the fraud units of the three credit reporting companies--Experian (formerly TRW), Equifax and Trans Union. Report the theft of your credit cards or numbers. Ask that your accounts be flagged. Also, add a victim's statement to your report. ("My ID has been used to apply for credit fraudulently. Contact me at 555-123-4567 to verify all applications.") Be sure to ask how long the fraud alert is posted on your account, and how you can extend it if necessary.

4. Notify your bank(s) of the theft. Cancel your checking and savings accounts and obtain new account numbers. Ask the bank to issue you a secret password that must be used in every transaction. Put stop payments on any outstanding checks that you are unsure of.

5. To prove your innocence, you may be required to fill out fraud affidavits with banks and credit grantors where fraudulent accounts have been established in your name. In some cases, you might be asked to have affidavits notarized, which could become costly. Attempt to persuade the requestors to waive the notary requirement. They may be willing to accept other forms of proof and save you the expense of notarizing documents.

6. If you use an ATM card for banking services, get a new card, account number and password. Do not use

your old password. When creating a password, avoid such commonly used numbers as the last four digits of your Social Security number and your birthdate.

7. If you have had checks stolen or bank accounts set up fraudulently, report it to TeleCheck, National Processing Company (NPC) or Equifax. (See phone numbers below.)
8. The Secret Service has jurisdiction over financial fraud cases (18 USC 1029). This federal government agency usually does **not** investigate individual cases unless the dollar amount is high. To interest the Secret Service in your case, ask someone in the fraud department of your credit card companies and/or banks to notify the particular Social Security agent they work with.
9. You may want to have your SSN changed if your number has become associated with bad checks and credit. Contact your local office of the Social Security Administration. Caution: This step should be reserved for only the most extreme situations. You must be sure to notify all credit grantors and credit reporting bureaus of your new SSN.
10. Notify the Postal Inspector if you suspect mail theft. Theft of mail is a felony.
11. If you have a passport, notify the passport office to be on the lookout for anyone ordering a new passport fraudulently.
12. Call your telephone, electrical, gas and water utilities. Alert them to the possibility that someone may attempt to open new service using your identification. Also contact your long distance company. You may need to cancel your long distance calling card if it has been stolen or if the account number has been accessed by "shoulder surfers."
13. You may want to change your driver's license number if someone has been using yours as identification on bad checks. When requesting a new number from the Department of Motor Vehicles, you might be asked to prove that you have been damaged by the theft of your driver's license. You may need to be persistent.
14. The nearest office of the Consumer Credit Counseling Service might be able to give you advice on removing fraudulent claims from your credit report. Call 800-388-2227.
15. In dealing with the authorities and financial institutions, keep a log of all conversations, including dates and names. Send correspondence by certified mail. Keep copies of all letters and documents. Provide your police report number to expedite reporting the crime.
16. Consider seeking legal counsel, especially if you have difficulty clearing up your credit history, or your case is complex and involves a lot of money. An attorney can help you recover from the fraud and determine whether your rights under various credit, banking, SSN and other laws have been violated.
17. Pay attention to your own mental health. Victims of identity theft often report they feel they are somehow to blame. They can also feel violated, even powerless, due to the fact that few, if any, of the authorities who have been notified of the crime step forward to help the victim. Discuss your situation with a friend or counselor. Seek help from a victims' rights organization.

## Resources

### Credit reporting bureaus

**Equifax**

- Report fraud:  
800-525-6285.
- Order copy of report (\$8):  
P.O. Box 740241, Atlanta, GA 30374-0241.  
Or call: 800-685-1111.
- Dispute information in report:  
P.O. Box 740256, Atlanta, GA 30374-0256.  
Or call the phone number provided in your credit report.
- Opt out of pre-approved offers of credit:  
800-219-1251 (California only).  
Or write: Equifax Options, P.O. Box 740123, Atlanta GA 30374-0123

**Experian**

- Report fraud:  
800-301-7195.  
By Fax: 800-301-7196.  
By mail: Experian Consumer  
(formerly TRW) Fraud Assistance  
P.O. Box 1017  
Allen, TX 75013. *\$8.00*
- Order copy of report (~~1 free report per year~~):  
P.O. Box 8030  
Layton, UT 84041.  
Or call: 800-682-7654.
- Dispute information in report:  
Contact Experian at address and phone number provided on your credit report.
- Opt out of pre-approved offers of credit and marketing lists:  
800-353-0809.

**Trans Union**

- Report fraud:  
800-680-7289.
- Order copy of report (\$8):  
P.O. Box 390  
Springfield, PA 19064.  
Or call: 800-916-8800.
- Dispute information in report:  
Call number provided on credit report or use "investigation request form" provided by TransUnion when you order your report.
- Opt out of pre-approved offers of credit and marketing lists:  
800-680-7293.

Remember, if you have been denied credit, you are entitled to a free credit report.  
(See PRC fact sheet no. 6 for more information about credit reports.)

**Social Security Administration**

If your SSN has been used fraudulently, report the problem to the Social Security Administration at 800-269-0271. You may also order your Earnings and Benefits Statement by calling the SSA at 800-772-1213. For extreme cases of identity theft, they may be willing to change your SSN.

**To remove your name from mail and phone lists (Direct Marketing Association)**

Mail Preference Service  
P.O. Box 9008  
Farmingdale, NY 11735.

Telephone Preference Service  
P.O. Box 9014  
Farmingdale, NY 11735.

**To report fraudulent use of your checks**

CheckRite, 800-766-2748  
National Processing Co. (NPC), 800- 526-5380  
Equifax, 800-437-5120  
TeleCheck, 800-710-9898  
ChexSystems, 800-328-5121 (regarding closed checking accounts only)

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## Are there any laws about telemarketing?

Yes, both federal and state laws regulate telephone solicitations.

### *Federal laws*

There are two major federal laws that regulate telemarketing. They somewhat overlap. The Telephone Consumer Protection Act of 1991 (TCPA) focuses on the use of telephone lines, and is regulated by The Federal Communications Commission (FCC). (47 USC 227; 47 CFR 64.1200) The Telemarketing and Consumer Fraud Abuse Prevention Act deals with scams and is regulated by The Federal Trade Commission (FTC). (15 USC 6101-6108; 16 CFR 310)

### Telephone Consumer Protection Act of 1991 (TCPA)

1. **"Do not call" lists.** The TCPA requires telemarketers to take you off their list if you ask them to do so. Further, telemarketers must have a written policy for maintaining do not call lists, available upon demand. (47 CFR 64.1200) If you have received more than one call by or on behalf of the same company in one year, after you have told the company to place your name on the "do not call list," you can:

- Sue the telemarketer in state court (usually small claims is recommended) to stop such calls and/or to recover a penalty. The penalty is actual monetary loss or up to \$500, whichever is greater, for each call received after you requested to be placed on the "do not call" list. If the court finds that the marketer willfully or knowingly broke the law, the penalty is up to three times the actual monetary loss or up to \$1500, whichever is greater.

The penalty for violations with respect to automatic dialing systems, prerecorded messages and facsimile machines, is \$500 or actual damages, whichever is greater. The penalty for willful or knowing violations is \$1500 or three times the actual damages.

- File a complaint with the Federal Communications Commission (FCC) and request that it take enforcement action against the telemarketer.
- Request that the Attorney General in your state file a suit against the telemarketer. If the Attorney General receives several complaints against the same telemarketer, it may take action against the telemarketer.

Calls by or on behalf of tax-exempt nonprofit organizations are *not* required to comply with the "do not call" list requirements. (47 CFR 64.1200) The "do not call" list requirements also do not apply to marketers calling businesses.

**Privacy tip:** If you want to take action against a company that continues to call, send a certified letter, return receipt requested, demanding to be placed on the "do not call" list. Keep a copy of the letter and the return receipt as proof. Also, **keep a log** of all calls.

2. **Restricted hours.** Telemarketers can only make calls to residences between 8 a.m. and 9 p.m. unless they have your prior express consent or if you have an established business relationship. (64 CFR 64.1200)

3. **Fax machines.** A telemarketer cannot use a fax machine, computer or other device to send an unsolicited ad to a fax machine unless the receiving party has given prior express consent. Any message sent by fax must clearly mark the following in the margins at the top or bottom of each transmitted page of the message or the first page of each transmission: the date and time it is sent; the sender; and, the phone number (not a 900

number) of the sender or of the sending machine. Fax machines manufactured on or after December 20, 1992, must clearly mark this information on the first page or on each page of the transmission. (47 USC 227) Fax modem boards manufactured on or after December 13, 1995, must also follow these requirements. (47 CFR 68.318)

**4. Recorded messages and automatic dialing devices.** Under the TCPA, a telemarketer cannot place a call to a residence using a prerecorded message unless the called party consents or the call is for emergency purposes. Calls with prerecorded messages are allowed when they are for noncommercial purposes, from someone with whom you have a prior business relationship, from a tax-exempt nonprofit organization, or when they do not include an unsolicited ad.

Autodialed and/or prerecorded messages to emergency numbers, hospitals, cellular telephones, pagers, or any service for which the called party is charged for the call are prohibited. However, they are allowed in emergencies or if the person called has given their prior express consent.

Finally, prerecorded messages are required to state the identity of the business, individual or other entity making the call at the beginning of the message. The telemarketer must provide its address or telephone number (other than a 900 number or the number of the autodialer or prerecorded message player). Any prerecorded call made using an autodialer must release your line within five seconds after you have hung up. (47 USC 227)

### **The Telemarketing and Consumer Fraud Abuse Prevention Act**

**1. "Do not call" lists.** The Telemarketing and Consumer Fraud Abuse Prevention Act also makes it illegal for a telemarketer to call you after you have requested not to be called. And it requires telemarketers to keep "do not call" lists. (16 CFR 310.4) You can sue telemarketers who violate this law. However, it is more difficult to sue under this law than under the TCPA. You can only sue in federal court and must show damages greater than \$50,000. If you cannot sue the telemarketer, contact the Attorney General's office or FTC. They are also given the right to sue telemarketers for violations of this law.

"Do not call" requirements do not apply to nonprofit organizations. But they do apply to for-profit telemarketing companies providing services for nonprofit organizations if those telemarketers sell goods and services as part of the call.

**2. Restricted hours.** Telemarketers may only call residences between the hours of 8 a.m. and 9 p.m. unless they have the prior express consent of the person called.

**3. Disclosures.** Telemarketers must promptly make certain disclosures including, that it is a sales call, what they are selling, and the identity of the seller. If the call is for a prize promotion, they must tell you that no purchase or payment is required to win a prize or participate in a prize promotion. (16 CFR 310.4) Before the customer pays, the telemarketer must disclose the total costs of the goods, any restriction on getting or using them and whether all sales are final or non-refundable. If the call is for a prize promotion, they must tell you the odds for winning, that no purchase or payment is required to win and all material costs or conditions to receive the prize. (16 CFR 310.3)

**4. No misrepresentation.** Telemarketers cannot misrepresent any information including the total cost and the quality of any goods or services. In addition, telemarketers may not make false or misleading statements to persuade you to purchase any goods or services. (16 CFR 310.3)

5. **Checking accounts.** Telemarketers cannot obtain or withdraw money from your checking, savings or similar accounts without your express verifiable authorization. (16 CFR 310.3)

## **California Laws**

1. **Registration.** Certain categories of telemarketers doing business in California must register with the Attorney General's office. The categories of telemarketers covered by this law include companies offering prizes; investments, including metals and coins; office supplies, and items below normal costs. (California Business & Professions Code 17511)

2. **Disclosure.** The telemarketer must disclose specific information at the time he/she is making the sales pitch. The disclosures depend on the type of goods or services the telemarketer is selling. For example, a telemarketer selling office equipment or supplies below normal costs must disclose the address of the location he/she is calling from and the name of the manufacturer of each of the items being sold. (See California Business & Profession Code 17511.5 for a list of disclosures.)

3. **Recorded messages.** Unsolicited prerecorded calls for the sale or lease of goods or services are banned unless a "live" operator first asks permission to play the tape. The operator must also tell the person who answers the phone the name of the caller and either the caller's address or telephone number. The operator must also ask if the person consents to hear the recorded message. Companies can use recorded messages when they contact established customers or if you have requested their call. (California Civil Code 1770 (v))

If you have suffered damages as a result of prerecorded calls, you may sue to recover damages, stop the calls, restore your property and/or obtain other relief that the court believes you deserve. (California Civil Code 1780)

4. **Automatic dialing-announcing devices.** Calls placed using automatic dialing-announcing devices are prohibited unless a "live" operator first makes an announcement to the person called. The operator must state the nature of the call and the name, address and telephone number of the business. The caller must also inquire if the person consents to hear the prerecorded message. This requirement does not apply to law enforcement or other specified agencies that use the automatic dialing-announcing device to provide information relating to public safety, police or fire emergencies. (California Public Utilities Code 2872-2874)

Automatic dialing-announcing devices may be used if the person being called has given prior consent, there is a prior business relationship; they have requested the call; or, for other specified purposes including a school contacting a student's parent/guardian regarding attendance. (California Public Utilities Code 2872, 2873) Further, automatic dialing-announcing devices may only be used in California to place calls received in California after 9:00 a.m. and before 9:00 p.m. (California Public Utilities Code 2872)

The California Public Utilities Commission (CPUC) imposes penalties for violations of the use of automatic dialing-announcing devices. The penalty is a fine up to \$500 for each violation and/or disconnection of the telephone service to the automatic dialing-announcing device for a period of time as specified by the CPUC (California Public Utilities Code 2876)

## **Other laws**

**Automatic Number Identification.** Federal law places restrictions on the use and sale of your phone number when you call an 800 or 900 number. When you call these numbers, your phone number could be

captured by Automatic Number Identification (ANI.) According to regulations issued by the Federal Communications Commission, a caller's consent is required before a company can reuse or sell ANI information. However, a company may reuse ANI information to market a product or service that is directly related to the product or service the caller previously purchased. (47 CFR 64.1602) California phone companies which offer ANI must notify their customers that the use of an 800 or 900 number may result in the disclosure of the caller's telephone number to the called party. (California Public Utilities Code 2891.2)

### How can I discourage telemarketers?

Tell the telemarketer to put you on their "do not call" list. **Be sure to keep a log** of every time you ask to be put on a company's "do not call" list. Ask for a copy of their written policy for maintaining "do not call" lists. We have also found it effective to say, "I never buy anything over the phone. Please take me off your list." By emphasizing that as a matter of principle you **never** make a purchase when contacted by phone, many telemarketers will remove you from their list.

### For more information

To obtain information on whether a specific telemarketing company is registered in California, write or call: **California Office of the Attorney General, Consumer Law Section, 300 S. Spring Street, 5th Floor, Los Angeles, CA 90013. (213) 897-2631.**

Complaints may be made to:

- **California Office of the Attorney General, Public Inquiry Unit, P.O. Box 944255, Sacramento, CA 94244-2550. Telephone: (800) 952- 5225 California only. Calls from outside of California (916) 322-3360.**
- **Federal Communications Commission, Informal Complaints and Public Inquiries Branch, Enforcement Division, Common Carrier Bureau, Mail Stop 1600A2, Washington, D.C. 20554**
- **Federal Trade Commission, Public Reference Branch, Room 130, 6th Street and Pennsylvania Ave. NW, Washington, D.C. 20580, Telephone: (202) 326-3128. You can also call your local FTC office.**

Complaints about Automatic Number Identification may be made to:

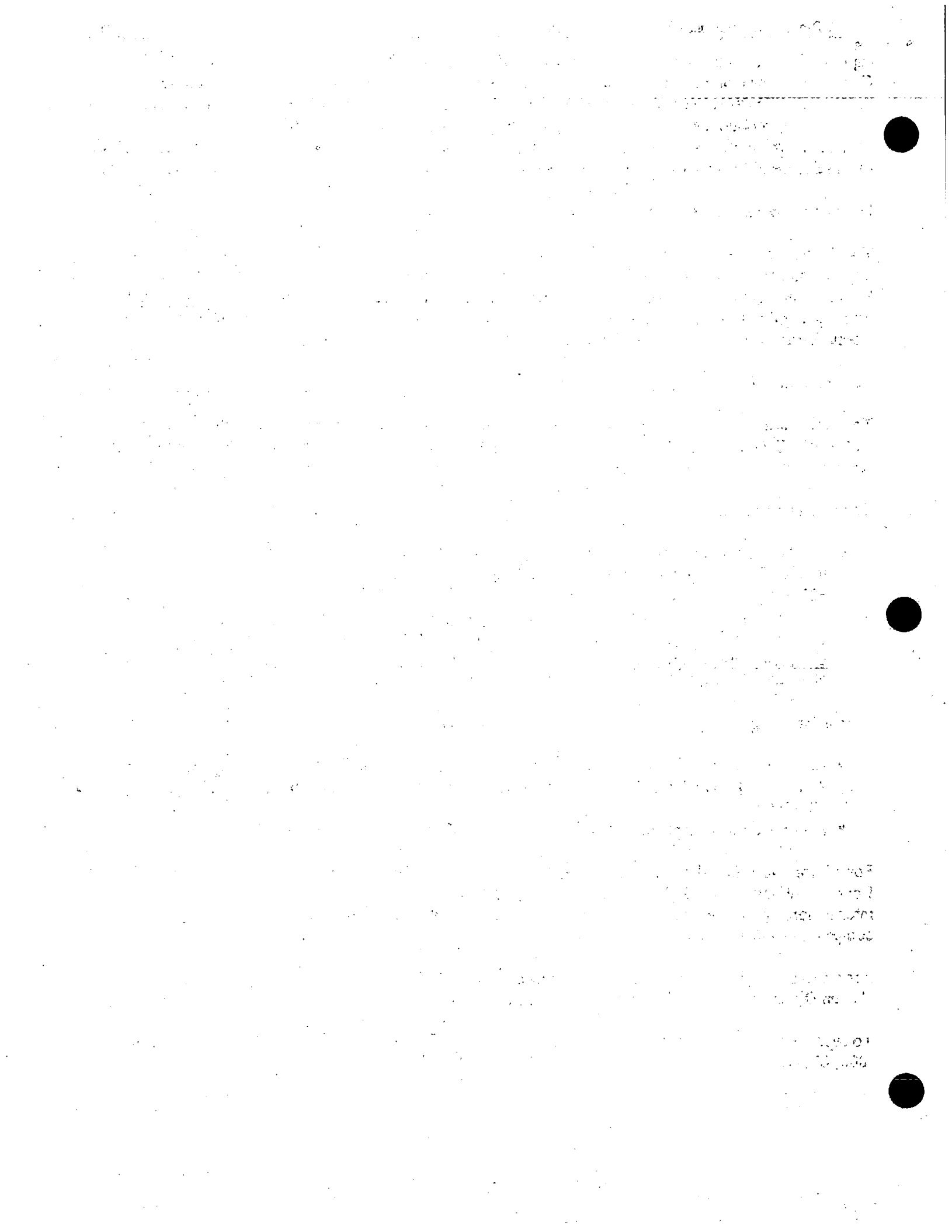
- **California Office of the Attorney General, Public Inquiry Unit, P.O. Box 944255, Sacramento, CA 94244-2550. Telephone: (800) 952- 5225 California only. Calls from outside of California (916) 322-3360.**
- **Federal Communications Commission, 2025 M Street NW, Washington, D.C. 20544.**

For a "stop the calls" telemarketing kit, send \$3.00 to: **Center for the Study of Commercialism, 1875 Connecticut Ave. NW, #300, Washington D.C. 20009. Telephone: (202) 332-9110 x393.** The kit contains information, tips and forms to keep track of "do not call" requests. It also provides advice on taking your complaint to small claims court.

For a \$20 annual fee, **Private Citizen**, a nonprofit organization, will list you in its "do not call" Private Citizen Directory which is distributed twice a year to over 1,400 telemarketing firms. Call (800) CUT-JUNK.

To report fraud and/or to request information on fraud, contact the National Fraud Information Center at (800) 876-7060.







## *The Hosts*

The Office for Victims of Crime (OVC) in the United States Department of Justice serves as the Federal government's chief advocate for America's crime victims. OVC administers grants programs designed to benefit victims, provides training for diverse professionals who work with crime victims, and develops projects to enhance victims' rights and services.

OVC also operates its own Community Crisis Response program, which enhances services to victims of violent crime in communities that have experienced major crimes or multiple victimizations. In that capacity, OVC supports the development of community-based crisis response teams, and has provided funding for this regional training series.

OVC's partner in presenting the trainings is the National Organization for Victim Assistance (NOVA). Founded in 1975, NOVA is the oldest association promoting victim rights and services in the worldwide victims' movement, and is the recognized leader in providing crisis response training. NOVA has provided training and technical assistance to hundreds of communities to help them develop local crisis response programs, and has responded directly to hundreds of communities in the aftermath of crisis.

Longmont, CO, is hosted by the Crisis Response Team Subcommittee of Longmont Violence Prevention.

Danvers, MA, is hosted by the Essex County District Attorney's Victim Witness Assistance Program.

Savannah, GA, is hosted by the Chatham County District Attorney's Victim Witness Assistance Program.

Indianapolis, IN, is hosted by the U.S. Attorney's Office for the Southern District of Indiana.

## *Who Should Attend*

The regional training series is designed for crime victim assistance specialists, but is open to others who respond to emergencies: law enforcement officers, firefighters, emergency medical personnel, school counselors, members of the religious and mental health communities, disaster responders, and community leaders.

The training is an intermediate college level course intended for those who have some education and experience in crisis intervention. Administrative and program management skills are beneficial.

Through the application process, each participant will have obtained local support for the development of a crisis response team.

## *Faculty*

The faculty are experienced NOVA trainers/practitioners and other crisis intervention pioneers familiar with implementing community crisis response teams.

## *Certificates/CEUs*

All full-time participants will receive a certificate of participation from the U.S. Department of Justice and the National Organization for Victim Assistance.

Licensed professionals seeking Continuing Education Unit credits will be able to register their attendance at the training with the American Council on Education (ACE) for \$5 per topic (16 topics maximum). Transcripts of attendance are available from ACE for a small fee.

## *Application Procedure*

Please complete and mail the attached application form to NOVA with all required attachments. Applications will be reviewed by NOVA/OVC and invitations will be issued to applicants who evidence strong personal and community commitment to the establishment and maintenance of a local community crisis response team. Every attempt will be made to invite as many applicants as possible; however, seating is limited and seats are not guaranteed. Early application is recommended.

Applications must be received by the following dates:

- Longmont, CO: May 5, 1997
- Danvers, MA: May 27, 1997
- Savannah, GA: June 9, 1997
- Indianapolis, IN: July 2, 1997

## *Training Costs and Logistics*

The normal registration fee of \$550 per person is *waived* since OVC is funding the trainings. However, participants will be responsible for personal transportation, lodging, and meal costs for the week. Each participant will receive a training manual and other materials at no additional cost.

Each participant is responsible for making his or her own hotel reservations and arrangements for ground travel. There is no requirement that participants stay at the recommended hotel; however, NOVA and the local host have ensured that the hotel offers an excellent room rate and amenities for our trainees.

## ***Preliminary Agenda\****

### ***Day One — Monday***

- 8:00 a.m. - 9:00 a.m. **Registration**  
9:00 a.m. - 10:00 a.m. **Introductions and Orientation to Course**  
10:00 a.m. - 12:30 p.m. **Nature of Catastrophe**  
Objective Time Dimensions of Crisis, Subjective Dimensions, Spatial Dimensions, Role Dimensions, Disaster Classification System and Exercise, Distinguishing Features of Community Tragedy  
12:30 p.m. - 1:30 p.m. **Lunch (On Your Own)**  
1:30 p.m. - 4:00 p.m. **Nature of Catastrophe (Continued from Morning)**  
4:00 p.m. - 6:00 p.m. **Long-Term Stress Reactions**  
Background to Common Long-Term Stress Reactions  
Post Traumatic Stress Disorder and Other Reactions

### ***Day Two — Tuesday***

- 9:00 a.m. - 10:00 a.m. **Video and Discussion: "No One Dies Alone"**  
10:00 a.m. - 12:30 p.m. **Death and Dying**  
Principles and Process of Individual and Group Death Notifications  
Confronting/Acknowledging Death: Fears and Concerns  
Dealing With Loss, Grief, Crisis, Special Attributes of Tragic Death  
12:30 p.m. - 1:30 p.m. **Lunch (On Your Own)**  
1:30 p.m. - 3:00 p.m. **Death and Dying (Continued from Morning)**  
3:00 p.m. - 4:00 p.m. **Crisis Intervention — Philosophy and Techniques**  
4:00 p.m. - 5:00 p.m. **Post-Trauma Counseling — Philosophy and Techniques**  
5:00 p.m. - 6:00 p.m. **Spiritual Dimensions of Trauma**

### ***Day Three — Wednesday***

- 9:00 a.m. - 10:00 a.m. **Video and Discussion: "The Killeen Massacre"**  
10:00 a.m. - 11:30 a.m. **Group Crisis Intervention (Debriefing) — Philosophy and Techniques**  
11:30 a.m. - 12:30 p.m. **Local Pre-Crisis Planning & the Draft Action Plan**  
12:30 p.m. - 1:30 p.m. **Lunch (On Your Own)**  
1:30 p.m. - 4:00 p.m. **Coordinating a Community Crisis Response**  
4:00 p.m. - 6:00 p.m. **Small Group Work: Case Studies of Communities in Crisis**

### ***Day Four — Thursday***

- 9:00 a.m. - 12:30 p.m. **Crisis and the Continuum of Age (Young and Elderly Victims)**  
12:30 p.m. - 1:30 p.m. **Lunch (On Your Own)**  
1:30 p.m. - 3:30 p.m. **Crisis From a Cross-Cultural Perspective**  
3:30 p.m. - 5:30 p.m. **Simulated Group Crisis Intervention Session**  
5:30 p.m. - 6:00 p.m. **Discussion of Simulation**

### ***Day Five — Friday***

- 9:00 a.m. - 11:00 a.m. **Case Study Small Group Presentations**  
11:00 a.m. - 12:30 p.m. **Practice Group Crisis Intervention Sessions**  
12:30 p.m. - 1:30 p.m. **Lunch (On Your Own)**  
1:30 p.m. - 3:30 p.m. **Practice Group Crisis Intervention Sessions (Continued)**  
3:30 p.m. - 5:00 p.m. **Coping With Caregiver Stress**  
5:00 p.m. - 6:00 p.m. **Graduation Ceremony**

*Breaks approximately every 50 minutes.*

*\*Agenda may be amended. Indianapolis agenda will change to fit into 4 10-hour days.*

## *. . . Your Attention, Please . . .*

- ⇒ Each applicant will receive a reply to his/her application.
- ⇒ Approved applicants will receive a confirmation package containing more detailed information, as needed, about the training for that city.
- ⇒ If a sufficient number of highly experienced applicants are confirmed, NOVA reserves the right to provide a separate advanced level track.
- ⇒ For information on special events or interesting things to do in the city where you will attend the training, contact that city's Chamber of Commerce or Convention/Visitor's Bureau to request that a packet of information be sent in advance.

### *Hotel and Training Facility Information*

#### **Longmont, CO • June 2-6, 1997**

Raintree Plaza Hotel/Conference Center • 1900 Ken Pratt Boulevard, Longmont, CO 80501  
(303) 776-2000 • Special NOVA Rate: \$87 single, \$97 double (plus 6.9% tax)  
Airport Express Shuttle • (303) 772-5466 • \$11 one way • complimentary daily parking  
Amenities: mini-suites, refrigerator/coffee maker, business center, European Breakfast Buffet and nightly refreshments included in room rate, daily box lunches @ \$8.95, pool/gym with sauna, on-site car rental service, near Boulder, Denver, Rocky Mountain National Park.

#### **Danvers, MA • June 23-27, 1997**

Tara's Ferncroft Conference Resort • 50 Ferncroft Road • Danvers, MA 01923  
(508) 777-2500 x 7950 • Special NOVA Rate: \$73 single, \$79 double (plus 9.7% tax)  
Granada Airport Shuttle • (800) 633-6220 • \$38 round trip (need hotel reservation number)  
Amenities: Welcoming Reception, 1 Luncheon and daily coffee, compliments of Essex County DA's Office, complimentary parking, total fitness center, golf, lunch buffet bar, near historic Salem and Boston.

#### **Savannah, GA • July 7-11, 1997**

Savannah Marriott Riverfront • 100 General McIntosh Boulevard • Savannah, GA 31401  
(912) 233-7722 • Special NOVA Rate: \$94 single/double (plus 12% tax)  
McCall's Airport/Amtrak Shuttle • (800) 673-9365 • \$15 one-way, \$25 round-trip  
Amenities: Full fitness facility, discounted daily parking rate of \$7, historic tours and river cruises, golf/tennis/horseback riding. A "Top 10 Walking City" on the beautiful riverfront.

#### **Indianapolis, IN • July 30 - August 2, 1997**

St. Vincent Marten House, 1801 West 86th Street, Indianapolis, IN 46260  
(317) 872-4111 • (800) 872-3111 • Special NOVA Rate: \$68 (+\$6.80 tax) • rooms sleep 4  
Ground transportation: Indy Connection Limo Service • (317) 241-7100 • \$13 one way  
Amenities: U.S. Attorney's Office arranging special lunch rates @ \$10/day (payable Day One), complimentary parking, fitness center, indoor pool, sauna, north of downtown.  
(NOTE: The Indianapolis training is scheduled for four 10-hour days, not five days!)

## Application Form

**Applicant Information:** Please type. Photocopied forms will be accepted. One form per applicant.

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Agency Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Fax: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

The training is being provided in four locations. Please indicate which city you prefer to attend:

- Longmont, CO, 6/2-6/97                       Savannah, GA, 7/7-11/97  
 Danvers, MA, 6/23-27/97                       Indianapolis, IN, 7/30-8/2/97

- I understand that I am making a commitment to help establish a community-based crisis response team in exchange for free training and materials. I will make every good faith effort to honor that commitment.
- I understand that if my application is accepted, I will receive five days of training, a training manual and other relevant materials at no charge. Other costs (hotel, meals, ground transportation, miscellaneous) will be my responsibility.
- I will be applying for Continuing Education Units with my professional licensing authority.
- Please specify if you need assistance with:  Mobility  Meals  Communication  
Describe: \_\_\_\_\_
- I would consider rooming with another trainee to save costs. Please put my name on a list and let me know if others would like to share rooms. I understand that I have to make all room-sharing arrangements and that NOVA bears no responsibility if the arrangement does not work out.
- I would like to display or distribute information about my agency or our community crisis response team during the training week. Please contact me.

**Attachment Information:** The following information **must** be attached for **each** applicant.

- Cover letter. Describe why *you* want this training and why *you* are committed to establishing a community crisis response team.
- Five letters of support. At least one letter must be from the organization/agency where team is to be established. At least one letter from a local governmental entity supporting the establishment of the team (for example, the chief of police, the county prosecutor or a municipal social service agency). Other letters can be from agencies, community leaders and personal references.
- Current resume. Indicate at least three years of crisis/crime victim work-related education and experience.
- Signed Statement of Commitment to Develop Action Plan (on the reverse).

Return application to, or for more information contact, Cheryl Guidry Tyiska, National Organization for Victim Assistance, 1757 Park Road, N.W., Washington, D.C. 20010, (202) 232-6682; fax: (202) 462-2255, e-mail: nova@digex.net or see us on the Web at <http://www.access.digex.net/~nova>.

Date rec'd: \_\_\_\_/\_\_\_\_/\_\_\_\_ Reviewer: \_\_\_\_\_ Accepted: Yes \_\_\_\_\_ No \_\_\_\_\_ Confirmation Sent: \_\_\_\_/\_\_\_\_/\_\_\_\_

# ***Statement of Commitment to Develop an Action Plan to Establish a Local Crisis Response Team***

The National Organization for Victim Assistance (NOVA), with support from the Office for Victims of Crime (OVC), has worked collaboratively to ensure that this training is made available to appropriate persons.

The purpose of the training is to promote the establishment of community- and institution-based crisis response teams. The crisis response teams will enhance the ability of the victim assistance and emergency response communities to meet the needs of large numbers of people who are traumatized by crime and other crises.

Participants at this training will be expected to attend the entire five-day, 40-hour session (four 10-hour days in Indianapolis). The session will provide, among other topics, an orientation to the need for crisis response teams, descriptions of the objective and subjective dimensions of community-wide trauma, the immediate and long-term crisis reactions related to major trauma, specific techniques to provide individual crisis intervention, group defusing and debriefing, and post-trauma emotional support, spiritual dimensions of trauma, and coping with the stress of trauma response. Participants will be asked to take part in several interactive training exercises during the week that will illustrate the group debriefing process and how to coordinate a response to a community-wide trauma.

Most of the training will focus on special techniques to transfer the principles of crisis intervention with individuals to the needs of large groups of traumatized people. Part of the training will describe how to establish a community crisis response team, and will provide information on how to coordinate a team effort in the event of a major crime or other crisis event. Each participant will be asked to begin to develop a Draft Action Plan for development of a local team in his/her community or organization. Once the training is completed, participants will be asked to return to their home community, meet with community leaders and refine the Draft Action Plan further. Once the Final Action Plan has been accepted by local leaders, the participant will be asked to begin the actual establishment of the team.

Approximately six weeks after the completion of the training, NOVA staff will contact each participant to obtain information about the progress of the Action Plan. NOVA will want to know about the successful techniques employed by the participants. Should the participant encounter obstacles, NOVA staff will provide technical assistance and support to help resolve the problem.

By signing this Statement of Commitment to Develop an Action Plan, participants agree to develop such an Action Plan and to work diligently toward the establishment of a local team.

***I have read the statement above, and commit myself to attending the full training, developing an Action Plan, and working toward establishment of a local community- or organization-based Crisis Response Team. I understand that I will need to work collaboratively with my community and/or institutional leaders and that I will receive information and guidance from NOVA, OVC, and regional CRT leaders, as needed.***

***Name and Title (Print)***

***Name of Agency***

***Signature***

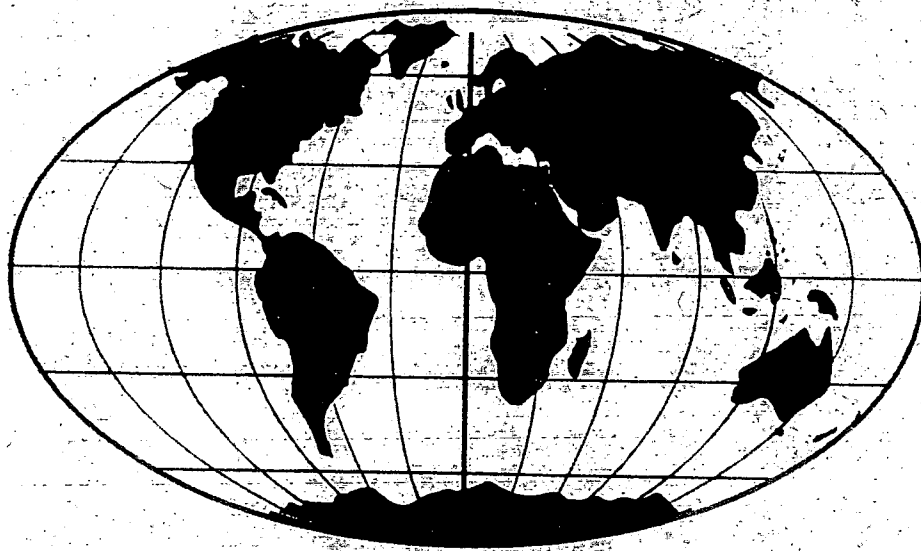
***Address of Agency***

***Date***

***Address of Agency***

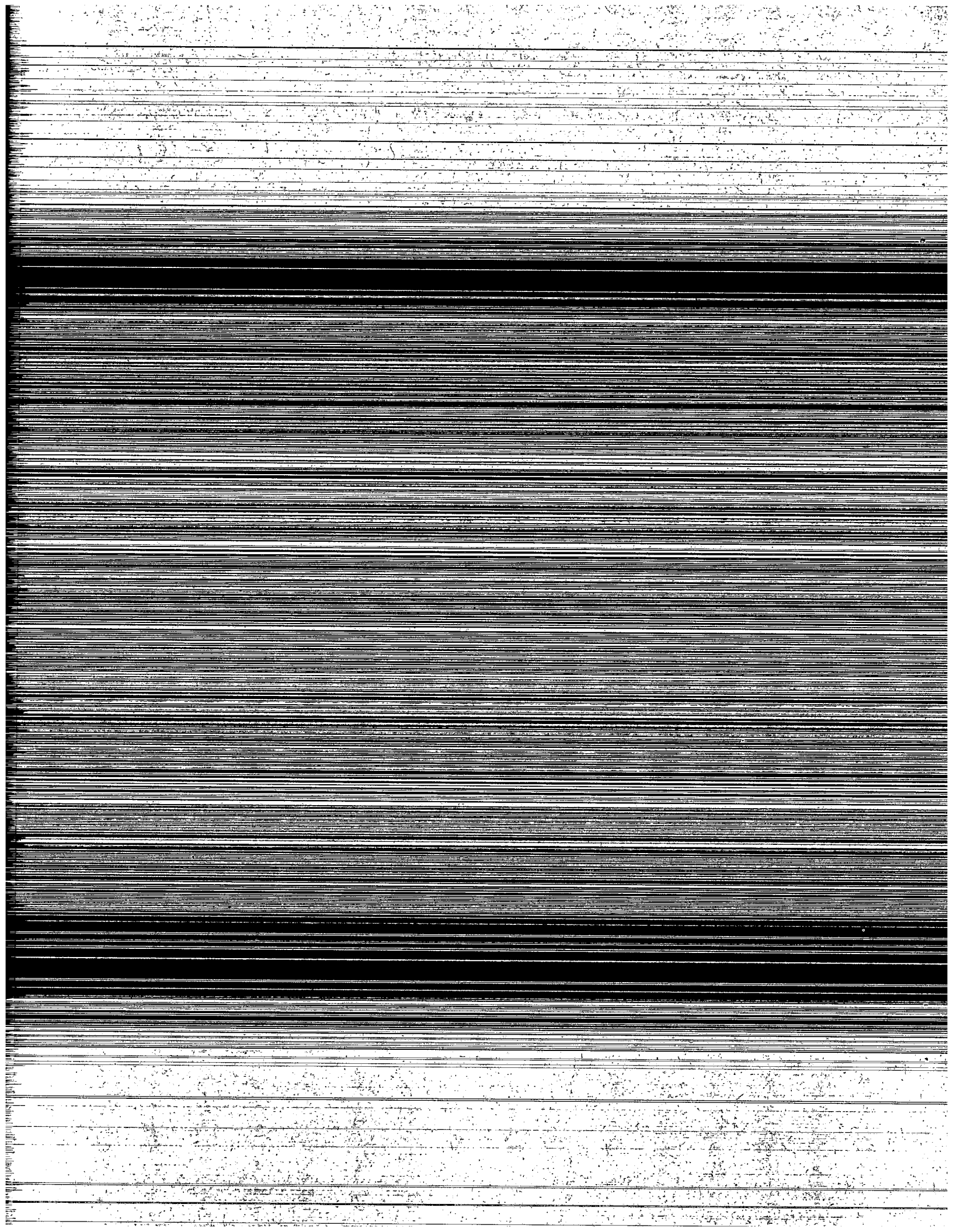


# International Crime Victim Compensation Program Directory



1996





# **INTERNATIONAL CRIME VICTIM COMPENSATION PROGRAM DIRECTORY**

## **1996**

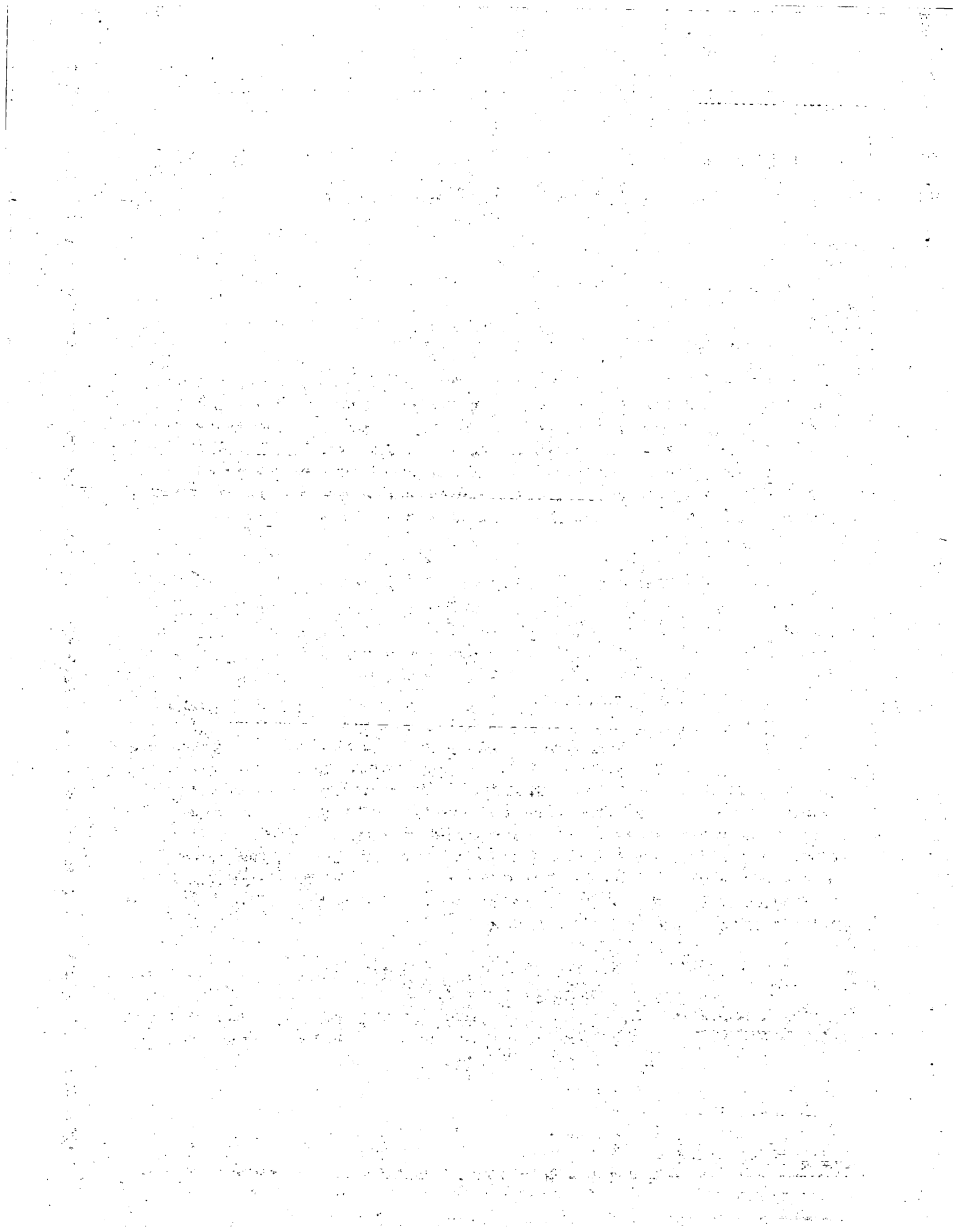
### **INTRODUCTION**

All around the world, victims of crime suffer physical injuries, emotional pain, and financial losses. Crime victim compensation programs provide victims with a desperately needed financial safety net and play a key role in healing. As society becomes increasingly mobile, countries are faced with the victimization of citizens not only from their own nation, but from foreign nations as well. An increasing number of countries are having to provide compensation to foreign nationals. However, international victimization poses administrative obstacles both for victims seeking compensation and for programs providing the financial assistance.

The *Office for Victims of Crime* (OVC) in the U.S. Department of Justice has developed this International Victim Compensation Program Directory in an effort to identify program parameters in other countries and to complement the *National Association of Crime Victim Compensation Boards'* directory of U.S. compensation programs. We hope that you find the Directory to be a successful link to international victim compensation programs and the worldwide effort to help victims of crime.

The Directory is a product of an OVC survey which was sent out to 60 foreign countries and provinces. The survey asked whether the country or province currently had a crime victim compensation program and requested further details. We received 26 responses, 17 of which described existing programs. Those 17 countries and the United States are listed in the Directory. We found that all of the respondents provide financial compensation to victims of crime, including foreign citizens. In addition, four countries compensate citizens of their own nation who are victimized in another country. In general, each program has established rules regarding the eligibility requirements, procedures, and compensable costs, while allowing for exceptions to these rules in special circumstances.

Additional information concerning crime victim compensation and assistance programs in the U.S. can be obtained by contacting the *Office for Victims of Crime* at (202)307-5983. Two nongovernmental groups also can provide information and assistance: the *National Association of Crime Victim Compensation Boards* at (703)370-2996; and the *International Association of Crime Victim Compensation Boards* at (504)367-6121.



## **AUSTRIA**

Weisser Ring  
Dr. Udo Jesionek  
Maroukanergasse 312  
1030 Wien  
Austria  
Phone: 022-271-21405  
Fax: 022-271-151-1144

*Austria has a crime victim compensation program to provide financial compensation to victims of violent or personal crime when serious injuries are incurred.*

### **ELIGIBILITY REQUIREMENTS**

*Report to police: Yes.*  
*Filing period: 6 months for current costs;  
2 years for the cost of medical help.*

### **CLAIMANTS**

- Victims of crime who suffer serious injuries
- Family of homicide victims
- Foreign citizens

### **PROCEDURES**

The applicant files a claim at any of the six "Bundessozialaut" located in Austria.

It is required that the applicant provide details of the date and place that the crime occurred, as well as a full list of injuries and losses incurred.

### **BENEFITS & AWARD LIMITS**

*There is no maximum award limit.*

#### **Compensable Costs:**

- Medical expenses
- Burial
- Lost wages
- Assistance for family of victim
- General social aid to foreign citizens

### **EMERGENCY AWARDS**

The program does not provide emergency compensation awards.

### **FUNDING SOURCES**

The program is funded through fines imposed on convicted offenders and other sources.

# BELGIUM

Commission d'aide de L'Etat aux victimes d'actes intentionnels de violences  
Ministere de la Justice  
Boulevard de Waterloo  
115 1000 Bruxelles  
Belgium

*Belgium has a crime victim compensation program to provide financial compensation to victims who suffer serious criminal injuries.*

## **ELIGIBILITY REQUIREMENTS**

*Report to Police: Yes.*

*Filing Period: One year after the sentence or one year after conclusion of the instructing magistrate if the offender is unknown.*

## **CLAIMANTS**

- Victims who suffer serious criminal injuries; except when the result of manslaughter, property crimes, and traffic offenses
- Foreign citizens

## **PROCEDURES**

Victims must report the date, place, and details of the crime to the police. They must also provide the program with a full list of injuries and losses incurred.

Applicants can obtain a compensation application from the above address and from Victim Support Schemes.

## **BENEFITS & AWARD LIMITS**

*There is no maximum award limit.*

### **Compensable Costs:**

- Medical expenses
- Lost wages
- Serious disability

## **EMERGENCY AWARDS**

The program does not provide emergency compensation awards.

## **FUNDING SOURCES**

The program is funded through fines imposed on convicted offenders and other sources.

## **CANADA**

*Canada has crime victim compensation programs to provide financial compensation to victims of violent or personal crimes. The programs are administered by the Canadian provinces, according to their own rules and standards. The description of four provincial programs are provided in the following three pages.*

*The provinces included are:*

- Nova Scotia;
- Prince Edward Island; and
- Quebec.

# NOVA SCOTIA

Criminal Injuries Compensation Program

P.O. Box 7

5151 Terminal Road, 3rd Floor

Halifax, Nova Scotia

Canada

B3J 266

Phone: 902-424-4651

Fax: 902-424-0252

*Nova Scotia has a crime victim compensation program to provide financial compensation to victims of violent or personal crime.*

## **ELIGIBILITY REQUIREMENTS**

*Report to Police:* Within a reasonable time; exceptions are made.

*Filing Period:* One year; exceptions are made.

## **CLAIMANTS**

- Victims of crime
- Dependents of homicide victims
- Foreign citizens

## **PROCEDURES**

A claimant can obtain an application by contacting the program directly or one of the four Regional Victims Services offices throughout the province. The application should be sent directly to the program.

Generally, a decision will be rendered within 90 days. Because police confirmation is required, the time varies. Compensation will be paid to the claimant within approximately 10 business days.

## **BENEFITS & AWARD LIMITS**

*The maximum awards in Dollars are:*

Lump Sum -- 30,000.00

Monthly -- 1,000.00

## **Compensable Costs and Limits**

- *Medical Expenses*
- *Mental Health:* \$2,000
- *Private Counseling:* \$65 per hour
- *Lost wages for disabled victims:* \$1,000 per month, \$12,000 total
- *Lost support for dependents of deceased victims:* Children \$196 per month until age 18, Spouse \$1,000 per month for one year
- *Funerals:* \$6,000
- *Travel*
- *Damaged clothing*

## **EMERGENCY AWARDS**

The program can make an emergency award if the circumstances warrant it and it is determined that the claimant is eligible or there is police confirmation.

## **FUNDING SOURCES:**

The program is funded through consolidated revenue of the province.

# PRINCE EDWARD ISLAND

Victim Services  
Department of Provincial Affairs and Attorney General  
3 Queen St., 2nd Floor  
P.O. Box 2000  
Charlottetown, Prince Edward Island  
Canada C1A 7N8  
Phone: 902-368-4582  
Fax: 902-368-5471

*Prince Edward Island has a crime victim compensation program to provide financial compensation to victims of violent or personal crime. Victim Services personnel provide the Minister of Provincial Affairs and Attorney General with the information necessary to decide claims.*

## **ELIGIBILITY REQUIREMENTS**

*Report to Police: Yes.*

*Filing Period: One year; exceptions are made.*

## **CLAIMANTS**

- Victims of violent crime
- Dependents of homicide victims
- Foreign citizens

## **PROCEDURES**

The victim must report the crime and cooperate with police. The claimant must file an application for compensation with Victim Services within one year of the crime.

If the suspected offender enters the court system, a compensation decision will not be made until the court process is exhausted.

## **BENEFITS & AWARD LIMITS**

*The maximum awards in Dollars are:*

*One victim: 15,000.00;*

*Multiple victims of one crime: 30,000.00*

## **Compensable Costs**

- Medical expenses
- Mental health
- Lost wages for disabled victims
- Lost support for dependents of homicide victims
- Funeral
- Travel
- Rehabilitation for disabled victims

## **EMERGENCY AWARDS**

In cases of financial need and when it appears probable that a final award will be granted, an interim award may be made for maintenance and medical expenses.

## **FUNDING SOURCES**

The program is funded by Federal and Provincial surcharge revenue and general tax revenue.



# QUEBEC

Commission de la sante et de la securite du travail

Direction de l'IVAC

1199, rue de Bleury, 9e etage

C.P. 6056, succursale Centre-ville

Montreal, Quebec

H3C 4E1

Phone: 514-873-6019, 1-800-561-4822

Fax: 514-873-3531

*Quebec has a crime victim compensation program to provide financial compensation to victims of violent or personal crime.*

## **ELIGIBILITY REQUIREMENTS**

Report to Police: Not required.

Filing Period: One year; exceptions are made.

## **CLAIMANTS**

- Victims of crime
- Dependents of homicide victims
- Foreign citizens
- Citizens of Quebec victimized in a foreign country

## **PROCEDURES**

A claimant can obtain an application from the Direction de l'IVAC head office and from regional offices of the Commission de la sante et de la securite du travail.

The application should be sent to the Direction de l'IVAC.

An initial decision should be made between 2 and 6 months. After a decision has been made, it will take 3 weeks to a month for the claimant to receive compensation.

## **BENEFITS & AWARD LIMITS**

*There is no award maximum.*

### **Compensable Costs**

- Medical expenses
- Mental health
- Lost wages for disabled victims
- Lost support for dependents of homicide victims
- Funerals
- Travel
- Rehabilitation for disabled victims
- Services to replace work in the home previously performed by the victim

## **EMERGENCY AWARDS**

There is a special early intervention policy for crime victims who, due to a recent event, experience major difficulties functioning and do not have any support.

## **FUNDING SOURCES**

The program is funded by "consolide du revenue."

## **DENMARK**

Naevnet vedrorende erstatning til ofre for forbrydelser (Erstatningsnaevnet)

Store Kongensgade 1, 1.

1264 Kobenhavn K

Denmark

Phone: 453-391-3500

Fax: 453-391-3540

*Denmark has a crime victim compensation program to provide financial compensation to victims who suffer serious criminal injuries.*

### **ELIGIBILITY REQUIREMENTS**

*Report to Police:* Within 24 hours; exceptions are made.

*Filing Period:* Within two years; exceptions are made.

### **CLAIMANTS**

- Victims of crime
- Dependents of homicide victims
- Foreign citizens

### **PROCEDURES**

The victim must report the crime to the police. The claimant must then file an application for compensation with the police or send it to Naevnet Vedrorende Erstatning.

The length of time it takes for the claimant to be notified of the program's decision depends on the case, but the earliest is four weeks. After a decision is made, it will take 14 days for a claimant to receive compensation.

### **BENEFITS & AWARD LIMITS**

*There is no maximum award limit.*

#### **Compensable Costs**

- Medical expenses
- Mental health
- Lost wages for disabled victims
- Lost support for dependents of homicide victims
- Funerals
- Travel
- Rehabilitation for disabled victims

### **EMERGENCY AWARDS**

The program does not provide emergency compensation awards.

### **FUNDING SOURCES**

The program is funded by State appropriations.

# FINLAND

The State Treasury/Victim Compensation Scheme

P.O. Box 68

00531 Helsinki, Finland

Phone: 358-0-772 51

Fax: 358-0-772 5334

*Finland has a crime victim compensation program to provide financial compensation to victims of violent or personal crime.*

## **ELIGIBILITY REQUIREMENTS**

*Report to Police:* No time limit; exceptions are made.

*Filing Period:* Ten years; exceptions are made.

## **CLAIMANTS**

- Victims of crime
- Dependents of victims of crime
- Foreign citizens
- Citizens of Finland victimized in a foreign country.

## **PROCEDURE**

A crime victim may obtain an application from the State Treasury, the police, or local offices of the Social Insurance Institution. Abroad, the applications are normally available at Embassies and Consulates of Finland.

The application should be sent either directly to the State Treasury or to any local office of the Social Insurance Institution. It will take six months, on average, for a victim to receive notification of the program's decision. Compensation is paid immediately after the decision is made.

## **BENEFITS & AWARD LIMITS**

*The maximum awards in Finnish Marks are:*

*Personal injury-270.000;*

*Property damage-135.000;*

*Loss of income-660 a day.*

## **Compensable Costs:**

- Medical expenses
- Mental health
- Lost wages for disabled victims
- Lost support for dependents of homicide victims
- Funerals
- Any clothing, articles for daily use, spectacles and dental plates damaged by the crime.
- Litigation expenses to recover compensation from the offender

## **EMERGENCY AWARDS**

The program does not offer emergency compensation. However, the Act obliges the State Treasury to pay advance compensation where the applicant's right to compensation is evident and the decision is delayed.

## **FUNDING SOURCES**

The program is funded by the State.

# FRANCE

Institut National d'Aide aux Victimes et de Mediation

Jean-Luc Domenech, Director

4.14 rue Ferrus

75014 Paris

France

Phone: 45 88 19 00

Fax: 45 88 94 02

*France has a crime victim compensation program to provide financial compensation to victims of violent or personal crimes.*

## **ELIGIBILITY REQUIREMENTS**

*Report to Police: Yes.*

*Filing Period: Within three years after the crime, or one year after the last decision of justice. Within ten years for terrorist acts.*

## **CLAIMANTS**

- Victims of crime
- Dependents of victims
- Foreign citizens
- EEC citizens

## **PROCEDURES**

The victim must report the crime to the police and provide details of the date, place, and resulting injuries and losses of the crime. The claimant then must "apply" for compensation, although application forms do not exist. Victim Support Schemes help with explaining the procedures and conditions of presenting a demand and obtaining compensation.

The prosecutor may decide to try a *Penal Mediation*. In the case of injuries or property crimes with small prejudices, *Penal Mediation* may help the victim to obtain compensation from the offender without a trial.

## **BENEFITS & AWARD LIMITS**

*There is no maximum award limit.*

### **Compensable Costs:**

- Criminal Injuries
- Entire compensation for all prejudices supported by victims and their family
- Property Crimes (condition of resources)
- Traffic Incidents (when offender is not insured)
- Terrorist Acts
- AIDS contamination.

## **EMERGENCY AWARDS**

The program does not provide for emergency compensation awards.

## **FUNDING SOURCES**

The program is funded by State appropriations.

# GERMANY

Weisser Ring  
Dieter Eppenstein, Director  
Weberstrasse 16  
55130 MAINZ  
Germany  
Phone: 06131-83030  
Fax: 06131-830345

*Germany has a crime victim compensation program to provide financial compensation for victims of violent or personal crime.*

## **ELIGIBILITY REQUIREMENTS**

*Report to Police: Yes.*

*Filing Period: Within one year; exceptions are made.*

## **CLAIMANTS**

- Victims of crime
- Dependents of homicide victims
- Foreign citizens; if the crime was committed after June 30, 1990 and the victim has stayed in Germany for more than three years
- EU country citizens from reciprocal states

## **PROCEDURES**

The victim must report the crime to the police and provide details of the date, place, and resulting injuries and losses of the crime.

A claimant can obtain an application from Versorgungsamt (local pension office) in almost every town. Weisser Ring also helps claimants to complete the compensation forms.

## **BENEFITS & AWARD LIMITS**

*There is no maximum award limit.*

### **Compensable Costs**

- Medical expenses
- Vocational rehabilitation
- Pensions; if victim's earning capacity is permanently reduced by at least 25% for six months or more.
- Benefits for dependents of homicide victims

## **EMERGENCY AWARDS**

The program does not provide emergency compensation awards.

## **FUNDING SOURCES**

Information not available.

# GREAT BRITAIN

Criminal Injuries Compensation Authority

Tay House

300 Bath Street

Glasgow, G2 4JR

Phone: 014-133-12726

Fax: 014-133-12287

014-135-33148

*Great Britain has a crime victim compensation program to provide financial compensation to victims of violent or personal crime.*

## **ELIGIBILITY REQUIREMENTS**

*Report to Police: As soon as possible; exceptions are made.*

*Filing Period: Within 2 years; exceptions are made.*

## **CLAIMANTS**

- Victims of crime
- Dependents of homicide victims
- Foreign citizens

## **PROCEDURES**

A claimant can obtain an application from CICA, local Victim Support Schemes, Crown Court Witness Service, local police stations or local Citizens Advice Bureaus.

The application should be sent to the CICA. The program's initial decision should be made within twelve months, while reviews and hearings take several months longer. Compensation will be paid as soon as CICA receives notification that the claimant accepts the decision.

## **BENEFITS & AWARD LIMITS**

*The maximum award in Pounds is: 500,000.*

### **Compensable Costs**

- Medical expenses
- Mental health expenses
- Lost wages for disabled victims
- Lost support for dependents of homicide victims
- Funerals
- Travel
- Rehabilitation for disabled victims
- Pain and suffering
- Bereavement
- Loss of parental services

## **EMERGENCY AWARDS**

Interim payments may be made where a final decision as to the appropriate award is uncertain. For example, when the victim's medical prognosis is unclear.

## **FUNDING SOURCES**

The program is funded by the Government/Taxpayers' revenue.

# NORTHERN IRELAND

The Compensation Agency  
Royston House  
34 Upper Queen Street  
Belfast  
BT1 6FD  
Northern Ireland  
Phone: 01232-249944  
Fax: 01232-246956

*Northern Ireland has a crime victim compensation program to provide financial compensation to victims of violent or personal crime.*

## **ELIGIBILITY REQUIREMENTS**

*Report to Police:* Within 72 hours; exceptions are made.

*Filing Period:* Within 3 months; exceptions are made.

## **CLAIMANTS**

- Victims of crime
- Dependents of homicide victims
- Foreign citizens

## **PROCEDURES**

A victim can obtain a compensation application from the Compensation Agency, the Solicitor Citizens' Advice Bureau, police stations or the Victims' Support Organization. The application should be sent to The Compensation Agency.

It will take 62 weeks, on average, for a victim to receive notification of the program's decision. Compensation will be paid when the victim's long-term medical condition has stabilized and he or she is confident that there is no additional medical evidence to submit.

## **BENEFITS & AWARD LIMITS**

*Maximum Award:* Unlimited in respect to physical injuries, but limited in respect to financial loss.

### **Compensable Costs**

- Medical expenses
- Mental health
- Lost wages for disabled victims
- Lost support for dependents of deceased victims
- Funerals
- Travel
- Rehabilitation for disabled victims
- Services to replace work in the home previously performed by the victim
- Any expense directly incurred as a result of the crime which is reasonable and proper

## **EMERGENCY AWARDS**

The program provides for interim payments pending a final compensation award.

## **FUNDING SOURCES**

The program is funded by the Central Government.

# REPUBLIC of IRELAND

The Criminal Injuries Compensation Tribunal

13 Lower Hatch Street

Dublin 2.

Republic of Ireland

Phone: (01) 610604

*The Republic of Ireland has a crime victim compensation program to provide financial compensation to victims of violent or personal crime.*

## **ELIGIBILITY REQUIREMENTS**

*Report to Police: Yes.*

*Filing Period: Within three months of the crime.*

## **CLAIMANTS**

- Victims of crime
- Foreign citizens

## **PROCEDURES**

The victim must report the crime to the police and provide details of the date and place that it occurred, as well as a full list of injuries and losses suffered.

A claimant can obtain an application from the Criminal Injuries Compensation Tribunal. There is a special form for crimes committed by terrorist organizations.

## **BENEFITS & AWARD LIMITS**

*There is no maximum award limit.*

### **Compensable Costs**

- Medical expenses
- Loss of earnings
- Travel expenses

## **EMERGENCY AWARDS**

The program does not provide emergency awards.

## **FUNDING SOURCES**

Information not available.



# JAPAN

The National Public Safety Commission

2/1, 2Chome, Kasumigaseki,

Chiyoda-ku, Tokyo, 100

Japan

Phone: 03(3581)0141

Fax: 03(3580)1009

*Japan has a crime victim compensation program to provide financial compensation to victims of violent or personal crime.*

## **ELIGIBILITY REQUIREMENTS**

*Report to Police:* Yes; no time limit.

*Filing Period:* Within 2 years from the day the applicant recognizes the crime, and within 7 years from the day the crime is committed.

## **CLAIMANTS**

- Victims of crime who suffer serious injuries
- Dependents of deceased victims
- Foreign citizens

## **PROCEDURES**

The victim must report the crime to the police and the police must recognize the victimization. A claimant can obtain an application at any police headquarters or police station.

The claimant should send the application to the police headquarters that has the jurisdiction over the address of the claimant, or the police station of that headquarters.

The length of time for a claimant to receive notification of the program's decision is dependent on the progress of the investigation. Compensation will be paid within a week or two after the decision has been made.

## **BENEFITS & AWARD LIMITS**

*The maximum awards in Yens are:*

*Bereaved Family Benefit -- 10,790,000*

*Incapacity Benefit -- 12,730,000*

### **Compensable Costs**

- Lost wages
- Lost support for dependents of deceased victims

## **EMERGENCY AWARDS**

If the program cannot quickly render the judgement because the offender is unknown or the degree of disability is unclear, the program offers the provisional benefit to the applicant.

## **FUNDING SOURCES**

The program is funded by the National Expenditure. For bereaved children, scholarships are available through the Crime Victims' Relief Fund.

# THE NETHERLANDS

Schadefonds Geweldsmisdrijven

P.O. Box 20021

2500 EA DEN HAAG

Phone: 01131-70-3813990

Fax: 01131-70-3813313

*The Netherlands has a crime victim compensation program to provide financial compensation to victims of violent or personal crime.*

## **ELIGIBILITY REQUIREMENTS**

*Report to Police:* Within three years; exceptions are made.

*Filing Period:* No time limit.

## **CLAIMANTS**

- Victims of crime who suffer serious injuries
- Dependents of homicide victims
- Foreign citizens

## **PROCEDURES**

A claimant can obtain a compensation application, by phone or mail, from Schadefonds Geweldsmisdrijven. The application should be sent there as well.

It takes approximately 17 months for a claimant to receive notification of the program's decision. Compensation will be received four weeks after notification.

## **BENEFITS & AWARD LIMITS**

*The maximum awards in Guldens are:*

*Material damage* - 50.000;

*Immaterial damage* (not for dependents of deceased victims) - 20.000.

## **Compensable Costs**

- Medical expenses
- Mental health
- Lost wages for disabled victims
- Lost support for dependents of homicide victims
- Funerals
- Travel
- Rehabilitation for disabled victims
- Services to replace work in the home previously performed by the victim
- Removal expenses
- Legal aid
- Any other expense, reasonably related to the injury

## **EMERGENCY AWARDS**

The program makes emergency awards when the request meets all of the eligibility conditions (except the exact extent of the damage), and a good reason for expedition exists.

## **FUNDING SOURCES**

The program is funded by the national government and the Department of Justice.

# NORWAY

Royal Ministry of Justice and the Police  
Department of Civil Affairs  
P.O. Box 8005 Dep., N-0030  
Oslo, Norway  
Phone: 47 22 34 99 90  
Fax: 47 22 24 27 22

*Norway has a crime victim compensation program to provide financial compensation to victims of violent or personal crime.*

## **ELIGIBILITY REQUIREMENTS**

*Report to Police: As soon as possible; exceptions are made.*

*Filing Period: No time limit.*

## **CLAIMANTS**

- Victims of crime
- Dependents of homicide victims
- Foreign citizens
- Citizens of Norway victimized in a foreign country

## **PROCEDURE**

A claimant can obtain an application from the police station, the chief administrative officer of the county, or the Ministry of Justice. It should be sent to the chief administrative officer of the county.

The claimant will receive notification of the program's decision between 2 weeks and 6 months, dependant on if a complaint is forwarded. Compensation is received between 1 day and 3 weeks. This decision can be appealed to an independent committee of 3 persons, appointed by the government, which is the final decision-maker.

## **BENEFITS & AWARD LIMITS**

*The maximum award in Kroner is: 200.000.*

### **Compensable Costs**

- Medical expenses
- Mental health
- Lost wages for disabled victims
- Lost support for dependents of deceased victims
- Funerals
- Travel
- Rehabilitation for disabled victims
- Services to replace work in the home previously performed by the victim

## **EMERGENCY AWARDS**

The program may give a prepayment if the award decision is delayed due to no fault of the claimant, and it would be reasonable to do so.

## **FUNDING SOURCES**

The program is funded through tax revenue.

## **SWEDEN**

The Ministry of Justice, Minister of Justice Laila Freivalds  
(Justitiedepartementet, Justitieminister Laila Freivalds)

103 33 Stockholm

Sweden

Phone: 46 8 405 10 00

Fax: 46 8 20 27 34

*Sweden has a crime victim compensation program to provide financial compensation to victims of violent or personal crime.*

### **ELIGIBILITY REQUIREMENTS**

*Report to Police:* Yes; no time limit.

*Filing Period:* Two years; exceptions are made.

### **CLAIMANTS**

- Victims of crime
- Dependents of homicide victims
- Foreign citizens
- Citizens of Sweden victimized in a foreign country

### **PROCEDURES**

Application forms are available at the local police stations, district courts, the local enforcement service offices, and insurance companies. Applications can also be ordered from the Criminal Victim Compensation and Support Authority.

The application must be sent to the Criminal Victim Compensation and Support Authority which is a central agency covering criminal injuries throughout the country. The claimant is notified of the program's decision within a few days. It then takes another week or two to receive the award.

### **BENEFITS & AWARD LIMITS**

*The maximum awards in Kroners are:*

*Personal Injuries:* limited to twenty times the basic amount or SEK 704 000.

*Property Damage:* half of the above sum.

### **Compensable Costs**

- Medical expenses
- Mental health
- Lost wages for disabled victims
- Lost support for dependents of deceased victims
- Funerals
- Travel
- Rehabilitation for disabled victims
- Services to replace work in the home previously performed by the victim
- Pain and suffering
- Violation of personal integrity
- Inconveniences resulting from the injury

### **EMERGENCY AWARDS**

When the victim is in urgent need of medical care, therapy, or has been infected by the HIV-virus, an emergency award can be made.

### **FUNDING SOURCES**

The program is funded by tax revenue.

# UNITED ARAB EMIRATES

Ministry of Justice  
ABU DHABI, P.O. Box 753  
U.A.E.

*The United Arab Emirates court system provides financial compensation to victims of violent or personal crime.*

## **ELIGIBILITY REQUIREMENTS**

*Report to Police:* Yes; within three years.  
*Filing Period:* No time limit; exceptions are made.

## **CLAIMANTS**

- Victims of all violent personal offenses
- Foreign citizens

## **PROCEDURES**

The victim must report the crime to the police within three years of its occurrence. The claimant can obtain an application for compensation from the police. The police will then send the case to the G.P. within 48 hours, after which it will be sent to the court of hearing.

The claimant will receive notification of the court's decision within one week. Compensation will be paid within one month of the court's decision.

## **BENEFITS & AWARD LIMITS**

*There is no maximum award limit.*

## **EMERGENCY AWARDS**

The program does not offer emergency or expedited compensation awards.

## **FUNDING SOURCES**

The compensation program is funded by the federal government.

# UNITED STATES

U.S. Department of Justice  
Office for Victims of Crime  
633 Indiana Avenue, N.W.  
Washington, D.C. 20531  
Phone: (202)307-5983  
Fax: (202)514-6383

*All 50 states in the U.S. have a crime victim compensation program to provide financial assistance to victims of violent or personal crime. Each state administers its own program in accordance with its state statute. The U.S. Department of Justice provides supplemental funding and technical support to the states. The following page provides information concerning the individual state programs.*

## **ELIGIBILITY REQUIREMENTS**

**Report to Police:** Usually within 72 hours; exceptions are made for good cause.

**Filing Period:** One year is typical; time limits vary from state to state.

## **CLAIMANTS**

- Victims of crime
- Dependents of homicide victims
- Relatives of victims of crime; eligible in some states
- Foreign citizens; eligible in most states

## **PROCEDURES**

The claimant must file an application with the compensation agency in the state in which the crime occurred. The location of every state compensation agency may be obtained by contacting the Office for Victims of Crime.

Based on information submitted by the victim, the agency determines if the claimant is eligible and has suffered a financial loss. In most states, the victim can appeal the agency's decision to deny or reduce the award of compensation.

## **BENEFITS & AWARD LIMITS**

*The state maximums average, in U.S. Dollars, between: 15,000.00 and 25,000.00.*

### **Compensable Costs (varies by state)**

- Medical expenses
- Mental health counseling
- Lost wages for disabled victims
- Lost support for dependents of homicide victims
- Funeral
- Travel for medical treatment
- Services to replace work previously performed by the victim
- Cleaning of homicide scene if a residence
- Essential personal property
- Rehabilitation

## **EMERGENCY AWARDS**

Some states provide emergency awards, or expedite processing, for victims faced with an extraordinary financial or health crisis.

## **FUNDING SOURCES**

Most states obtain their funding from fees or charges assessed against offenders. Some states receive appropriations from general revenue. OVC provides supplemental funds from federal criminal fines.

## U.S. Crime Victim Compensation Programs: Phone and Fax #'s

### ALABAMA

(334) 242-4007  
(334) 240-3328 (fax)

### ALASKA

(800) 764-3040/(907) 465-3040  
(907) 465-2379 (fax)

### ARIZONA

(programs in each county)  
(602) 542-1928 [state coordinator]  
(602) 542-4852 (fax)

### ARKANSAS

(501) 682-1323  
(501) 682-5313 (fax)

### CALIFORNIA

(916) 323-6251  
(916) 327-2933 (fax)

### COLORADO

(programs in each district)  
(303) 239-4402 [state coordinator]  
(303) 239-4491 (fax)

### CONNECTICUT

(203) 529-3089  
(203) 721-0593 (fax)

### DELAWARE

(302) 995-8383  
(302) 995-8387 (fax)

### DISTRICT OF COLUMBIA

(202) 727-3361  
(202) 727-3783 (fax)

### FLORIDA

(904) 488-0848  
(904) 487-1595 (fax)

### GEORGIA

(404) 559-4949  
(404) 559-4960 (fax)

### HAWAII

(808) 587-1143  
(808) 587-1146 (fax)

### IDAHO

(208) 334-6000  
(208) 334-2321 (fax)

### ILLINOIS

(312) 814-2581 [A.G.'s office]  
(312) 814-5079 (fax)  
(217) 782-0703 [Court of Claims]  
(217) 785-1856 (fax)

### INDIANA

(317) 232-7103  
(317) 233-3912 (fax)

### IOWA

(515) 281-5044  
(515) 281-8199 (fax)

### KANSAS

(913) 296-2359  
(913) 296-0652 (fax)

### KENTUCKY

(502) 564-2290  
(502) 564-4817 (fax)

### LOUISIANA

(504) 925-4437  
(504) 925-1998 (fax)

### MAINE

(207) 624-7882  
(207) 626-8828 (fax)

### MARYLAND

(410) 764-4214  
(410) 764-4039 (fax)

### MASSACHUSETTS

(617) 727-2200, ext. 2557  
(617) 367-3906 (fax)

### MICHIGAN

(517) 373-7373  
(517) 335-2355 (fax)

### MINNESOTA

(612) 282-6256  
(612) 282-6269 (fax)

### MISSISSIPPI

(601) 359-6766  
(601) 359-2470 (fax)

### MISSOURI

(573) 526-6006  
(573) 526-4940 (fax)

### MONTANA

(406) 444-3653  
(406) 444-4722 (fax)

### NEBRASKA

(402) 471-2828  
(402) 471-2837 (fax)

### NEVADA

(702) 486-2740 (Las Vegas)  
(702) 486-2555 (fax)  
(702) 688-2900 (Reno)

### NEW HAMPSHIRE

(603) 271-1284  
(603) 271-2110 (fax)

### NEW JERSEY

(201) 648-2107  
(201) 648-3937 (fax)

### NEW MEXICO

(505) 841-9432  
(505) 841-9437 (fax)

### NEW YORK

(212) 417-5160 (New York City)  
(212) 417-4829 (New York City) (fax)

(518) 457-8727 (Albany)

(518) 457-8658 (Albany) (fax)

### NORTH CAROLINA

(919) 733-7974  
(919) 715-4209 (fax)

### NORTH DAKOTA

(701) 328-6195  
(701) 328-6651 (fax)

### OHIO

(614) 466-7190 (Court of Claims)  
(614) 644-8553 (fax)

(614) 466-5610 (A.G.'s office)  
(614) 752-2732 (fax)

### OKLAHOMA

(405) 557-6704  
(405) 524-0581 (fax)

### OREGON

(503) 378-5348  
(503) 378-5738 (fax)

### PENNSYLVANIA

(717) 783-5153  
(717) 787-4306 (fax)

### RHODE ISLAND

(401) 277-2500 (Superior Court)  
(401) 277-3599 (fax)

(401) 277-2287 (Treasurer's office)

(401) 277-2212 (fax)

### SOUTH CAROLINA

(803) 734-2445  
(803) 734-0505 (fax)

### SOUTH DAKOTA

(605) 773-3478  
(605) 773-3194 (fax)

### TENNESSEE

(615) 741-2734  
(615) 532-4979 (fax)

### TEXAS

(512) 936-1200  
(512) 320-8270 (fax)

### UTAH

(801) 533-4000  
(801) 533-4127 (fax)

### VERMONT

(802) 828-3374  
(802) 828-3389 (fax)

### VIRGIN ISLANDS

(809) 774-0930, ext. 4104  
(809) 774-3466 (fax)

### VIRGINIA

(804) 367-8686  
(804) 367-9740 (fax)

### WASHINGTON

(360) 902-5355  
(360) 902-5333 (fax)

### WEST VIRGINIA

(304) 347-4850  
(304) 347-4819 (fax)

### WISCONSIN

(608) 266-6470  
(608) 264-6368 (fax)

### WYOMING

(307) 635-4050  
(307) 638-7208 (fax)

### OFFICE FOR VICTIMS OF CRIME

U.S. Department of Justice

(202) 307-5983

(202) 514-6383 (fax)

### NATIONAL ASSOCIATION

OF CRIME VICTIM

COMPENSATION BOARDS

P.O. Box 16003

Alexandria, VA 22302

Phone and fax: (703) 370-2996

**CRIME VICTIM COMPENSATION PROGRAM  
INFORMATION UPDATE**

**Please use this page, and any additional pages you may need, to make corrections to the information in this Directory or to submit new information to be included in the next edition.**

**Please mail or Fax your information to:  
Jackie McCann Cleland, Director  
State Compensation and Assistance Division  
Office for Victims of Crime  
633 Indiana Avenue, N.W.  
Washington, D.C. 20531  
Phone: (202) 616-2145 Fax: (202) 514-6383**

**YOUR NAME:** \_\_\_\_\_

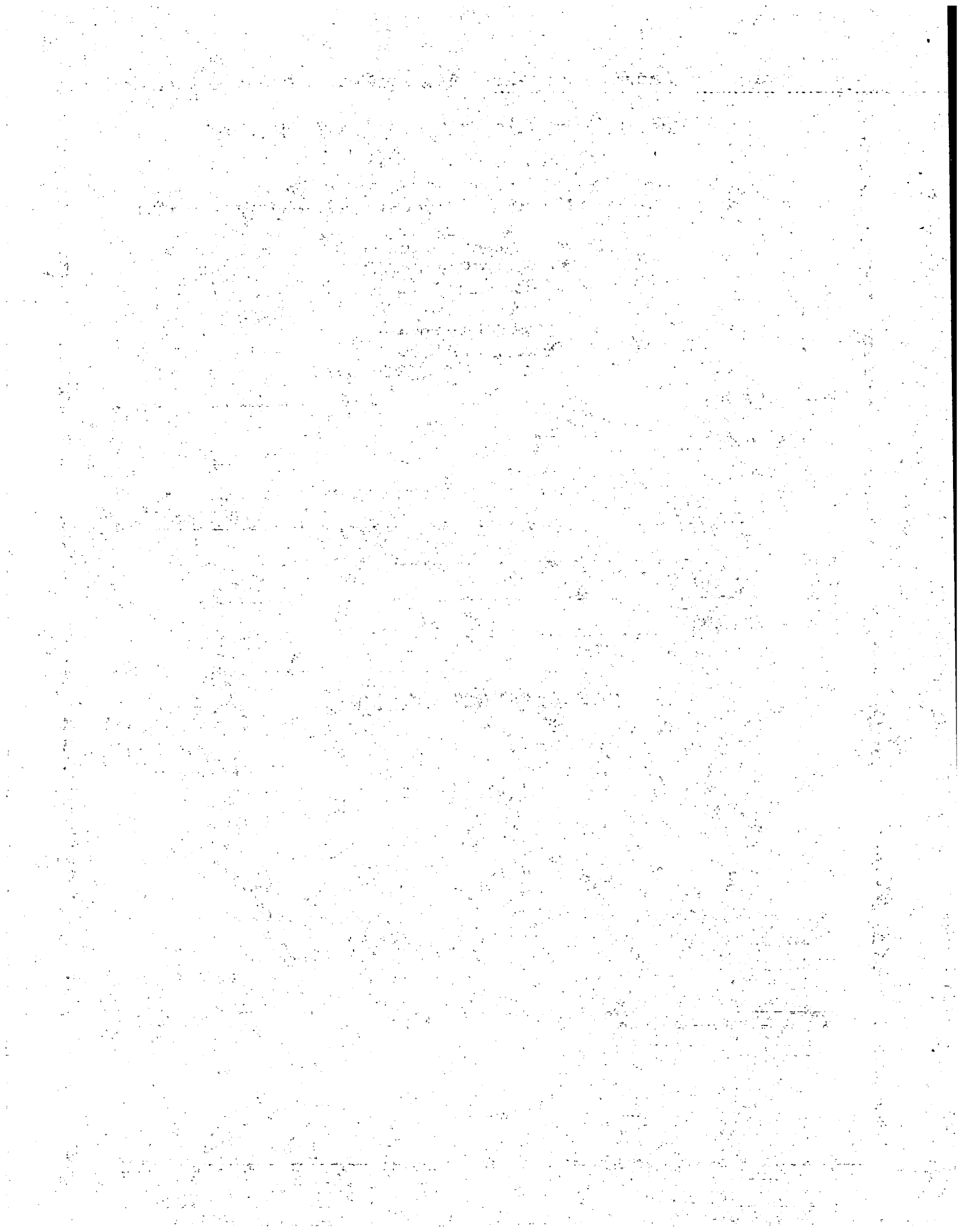
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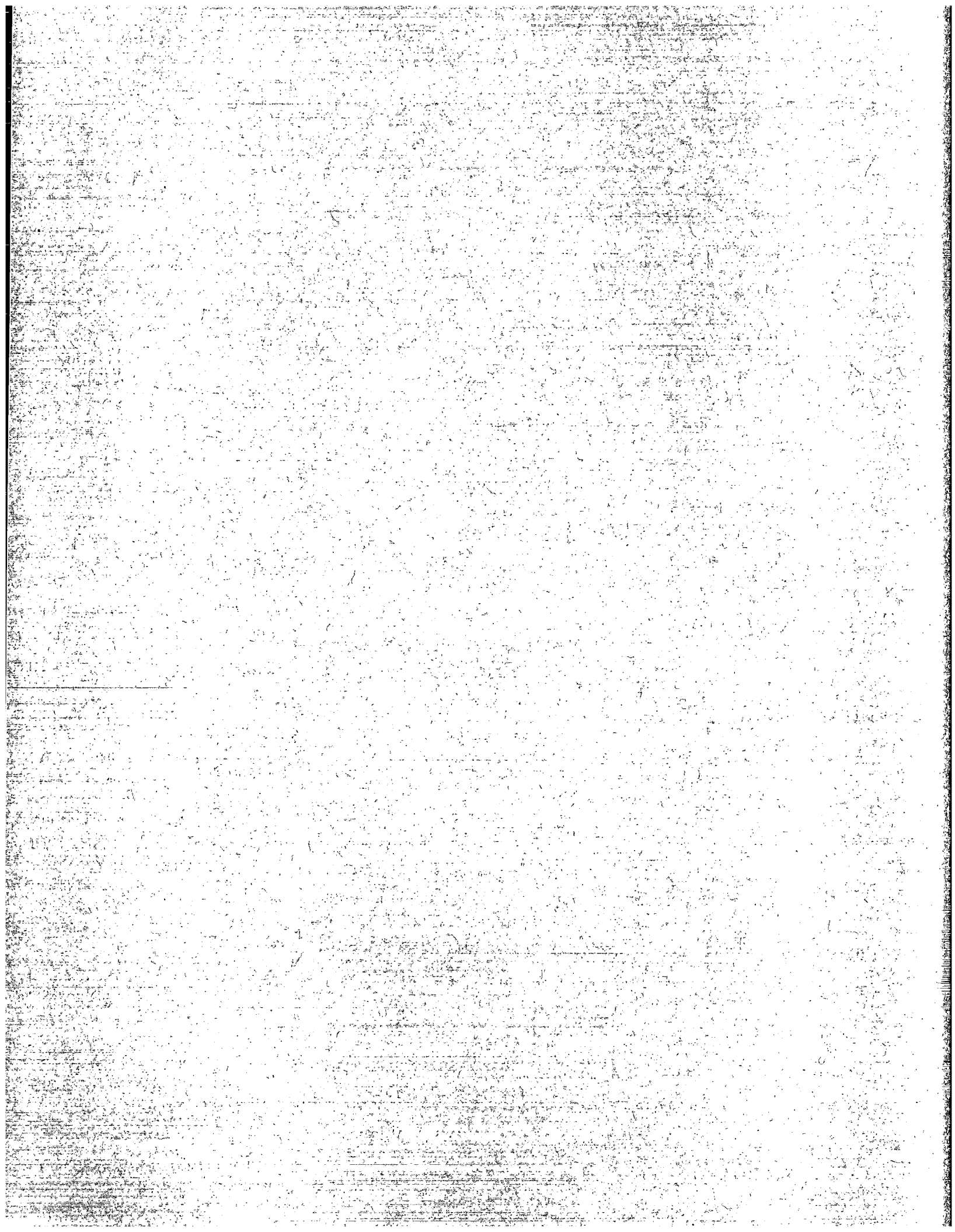
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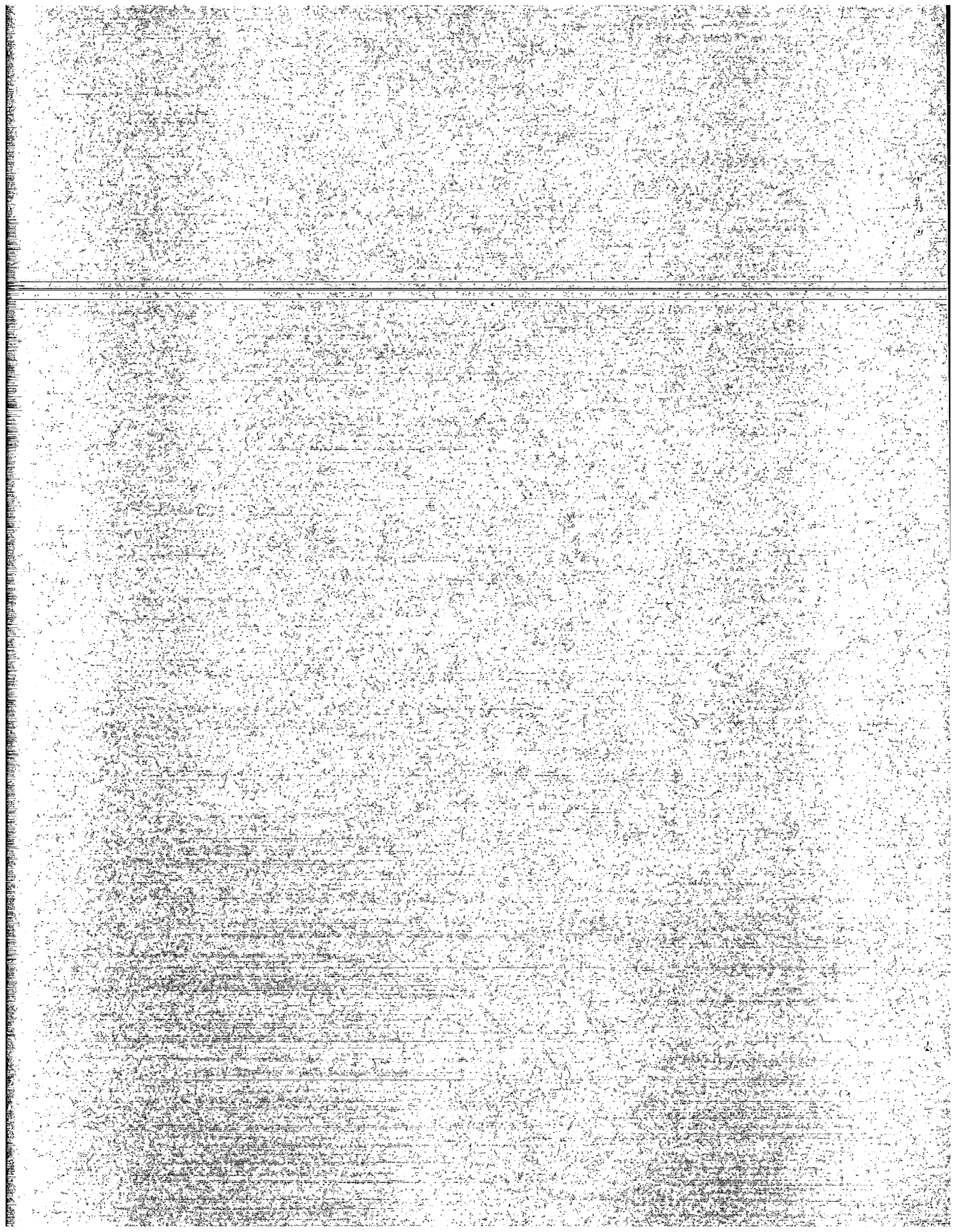
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**CORRECTIONS & ADDITIONS:**









# History of the Victims' Movement

## A Short History of the Victims Movement ©

by

Marlene A. Young, Ph.D., J.D.

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National Organization for Victim Assistance

1757 Park Road, NW

Washington, DC 20531

*(Adapted from a chapter forthcoming in the second revision of Victims of Crime, Arthur J. Lurigio, Wesley G. Skogan, & Robert C. Davis, eds., Sage Publications)*

### Introduction

At 9:02 a.m. on April 19, 1995, the United States was stunned and shaken by the bombing of the Alfred P. Murrah federal building in Oklahoma City, Oklahoma. The worst terrorist attack on the civilian population in recent history. It killed 168 people and shattered the lives of the survivors. The devastation caused by the crime was extraordinary and millions around the world watched the explosion replay time and again on television with horror. But what wasn't seen on television -- the response to the victims -- was also extraordinary. The U.S. Justice Department and the U.S. Department of Education supported teams of crisis responders who flew into Oklahoma within hours of the event to provide crisis intervention and counseling support to rescue workers, community members, and survivors of the bombing. The state victim compensation program under the direction of Suzanne Breedlove began almost instantaneous mobilization to provide financial aid to families of the victims. The U.S. Attorney's office began preparations for providing assistance to victims and survivors as they faced the possibility of a lengthy criminal investigation and trial of the accused. In 1995, care and concern about victims were the central focus for the victim assistance coordinators in Oklahoma and equally central to the thoughts of the Attorney General of the United States.

The response was indicative of impact of the victims movement and the changes it has created in social and criminal justice arenas over the last thirty years. The movement has redefined the laws affecting victim participation in the system, the nature of services provided to victims, and even the definitions of who is a victim and what the effects of victimization are. Because the force of the movement has been so powerful and continues to shape public policy and social programs, it is useful to review its origins, what it has accomplished today, and where it may lead in the future.

### The Past: The Infancy of Victims Movement Defining Theory and Developing Practice

The emergence of the victims movement was triggered by the confluence of five virtually independent activities: the introduction of state victim compensation programs; the development of a field of study known as victimology; the rise of consciousness in the women's movement; the rise of crime and a parallel growth in public dissatisfaction with the criminal justice system; and the growth of victim activism.

The idea that the state should provide financial reimbursement to victims of crime for their losses was initially propounded by English penal reformer Margery Fry in the 1950s. It was first implemented in national legislation in New Zealand in 1963 and England passed in similar law shortly

## National Symposium on Federal Crime Victims

thereafter. Early compensation programs were motivated by welfare concepts of providing assistance to victims in need. California became the first state to establish a compensation program in 1965 followed by New York. While the idea spread relatively slowly, there were 32 states with compensation programs by 1979.(2) And, most evolved away from principles of welfare to a justice orientation in which victims were seen as deserving compensation whether or not they were in need. Compensation programs also promoted involvement by victims in the criminal justice system since they required victims to report to the police and, in many cases, to cooperate with prosecution. Administrators of victim compensation programs in the early years were not always passionate advocates of victim issues, but victim compensation programs have been of both practical and symbolic value to victims of crime. They represented the first public recognition in recent history of society's responsibility to victims and have been the cornerstone of victim service schemes.

The study of victimology arose in Europe after World War II primarily to seek to understand the criminal-victim relationship. It is an irony in retrospect that early victimology at times suggested that the victim might be one of the causes of criminal behavior. Benjamin Mendelsohn first coined the term "victimology" to propose a separate discipline from criminology -- one that focused on the victim's role in criminal behavior. His initial typology classified victims in accordance with the degree of their guilty contribution to crime. Similarly, Hans von Hentig, argued that the reciprocal relationship between the criminal and victim not only calls for greater victim participation in the criminal justice system but a greater share in criminal responsibility.

The importation of the idea of a victimology to the United States correlated with increasing concern about crime in the late 1960s. That concern spawned the formation of the President's Commission on Law Enforcement and the Administration of Justice in 1966 which in turn spurred national crime victimization surveys that showed that victimization by crime was far higher than law enforcement reports reflected and that victims often didn't report due to lack of faith in the criminal justice system. This captured the attention of researchers who began to examine more closely the impact of crime on victims as well as victim disillusionment with the system. Studies done during the 1970s on the crisis of crime, rape trauma, crime's impact on the elderly and the battered woman's syndrome had a profound influence on shaping program strategies for helping victims to cope. Research on victim and witness participation in the criminal justice system was the catalyst for experimental programs in prosecutor offices mandated to provide better notification, support and aid to victims and witnesses. Victimology began to reflect a more compassionate view of victims.

There is little doubt that the women's movement was central to the development of a victims movement. Leaders of the women's movement saw sexual assault and domestic violence and the response of the criminal justice system as potent illustrations of a woman's lack of status, power, and influence. Consciousness-raising groups rapidly saw the need to provide special care to victims of rape or spouse abuse. It is significant that of the three first victim programs in the United States, two were rape crisis centers in Washington, D.C. and the San Francisco Bay area. One of the interesting contributions of these programs was their emphasis on crisis intervention and counseling for victims. Recognition of the questionable outcomes of the criminal justice system, made it all the more important to concentrate on helping women cope with the crisis of crime and to empower them to begin a new life.

The growth of victimology helped to provide the data that proved what the public already knew during the 1970s. Crime and fear of crime was at an unacceptably high level and victims

## History of the Victims' Movement

received little attention or assistance in the aftermath of crime. The culmination of this knowledge led to initiatives by the Law Enforcement Assistance Administration which provided funding to criminal justice agencies to improve services to victims. In 1974 the first victim/witness programs were created through LEAA in the District Attorneys' offices in Brooklyn, New York, and Milwaukee, Wisconsin. The National District Attorneys Association also received a grant to create model programs of assistance in seven other DA's offices. These programs proved to be the fertile ground for the development and implementation of new ideas for victim services. The leadership from the program directors helped to mold the new movement and many of them remain actively involved today. In addition, LEAA supported the founding of programs in law enforcement agencies. In 1974, Indianapolis, IN and Ft. Lauderdale, FL became the first communities to establish law enforcement-crisis intervention programs responding all victims of crime with counseling and assistance.

Finally, the victims movement was given its energy and determination from victims themselves. The women's movement raised the consciousness of women to the oppression of criminal violence, but it was rape survivors and battered women who most commonly founded programs and shelters for other victims. Families and Friends of Missing Persons and Violent Crime Victims was organized in 1974 in the state of Washington as the result of efforts of survivors of homicide victims. Parents of Murdered Children was founded by Charlotte and Robert Hullinger in 1978 in the aftermath of the murder of their daughter. Mothers Against Drunk Driving was organized in 1980 by Candy Lightner when her daughter was killed. Protect the Innocent in Indiana was established by Betty Jane Spencer after she was attacked in her home and her four boys were killed.

These five forces worked together at first in loose coalition, but the formation of the National Organization for Victim Assistance (NOVA) in 1975 helped to consolidate the purposes and the goals of the victims movement. The organization grew out of ideas developed at the first national conference on victim assistance in Ft. Lauderdale, Florida in 1973. NOVA's initial contributions to the field were to continue annual national conferences to promote victim issues and to provide early training opportunities to those working with victims.

Funding to the field in the late seventies through LEAA gave communities opportunities to replicate the initial programs, and begin to translate knowledge and practice into educational materials. The National District Attorneys Association developed a Committee on Victims to assist in disseminating information. And, the American Bar Association established a Victims Committee as a part of its Criminal Justice Section to increase awareness of victim issues among lawyers.

By the end of the 1970s, many states had at least a few victim assistance programs, state networks of programs had been established in 10 states, and there was a common understanding of the basic elements of service: crisis intervention, counseling, support during criminal justice proceedings, compensation and restitution. The National Institute of Justice sought to consolidate this information in the publication of a Model Victim Witness Assistance Program Guide and the development of regional training seminars to assist the development of new programs. L.E.A.A. continued to promote victim assistance through its state block grant program as well as by establishing the first National Victim Resource Center in 1978.

In 1979, NOVA incorporated the growing demand for victims to have a legitimate access to the justice system into a new policy platform on victim rights and the initiation of a National Campaign for Victim Rights which had as its core, a National Victim Rights Week, endorsed in 1981 by President Ronald Reagan.

## National Symposium on Federal Crime Victims

The 1970s were marked by rapid progress in improving responses to victims, but it was also marked by turbulence. The turbulence was caused in part by the waxing and waning of federal financial support. As national priorities shifted, stable funding became elusive, and programs often entered into internecine warfare over the limited resources that were available.

Controversy also arose between programs that were driven by grassroots energy and those that were based in traditional criminal justice institutions. Many felt there was an inherent conflict between the goals of a prosecutor or law enforcement agency and the interests of victims. Some sought legal changes in the system while others felt change could take place through adjustment of policies and procedures.

Tensions within the movement led to the emergence of new national organizations: the National Coalition Against Sexual Assault was formed at a NOVA meeting in 1978 to serve as leadership for rape crisis programs; the National Coalition Against Domestic Violence was founded at the end of 1978 to provide an advocacy network for shelters.

### **Adolescence: Growth and Acceptance**

The loss of significant federal funding for local programs in 1980 due to the abolishment of L.E.A.A. by Congress served as a potent reminder of how tenuous the movement's gains in the 1970s were. The impact of the new organizations, victim activist groups, and public awareness of the plight of victims of crime came at a critical time. Their influence helped the victims movement make progress on three fronts: public policy; program implementation; and public awareness.

Public policy leaders in states realized that state action was necessary to ensure the permanency of victim assistance. California again was a leader as it became the first state to establish funding for victim assistance in 1980. Wisconsin took action by becoming the first state to pass a victims bill of rights. The concern for victims was enhanced by the receptivity of the new Administration. Congress reflected its interest in victim issues by passing the Victim and Witness Protection Act of 1982. That Act established fair standards for the treatment of victims in the federal court system and mandated that the Attorney General publish guidelines for the implementation of these standards. President Reagan followed up his endorsement of National Victim Rights Week with an Attorney General's Task Force on Violent Crime in 1981. The Task Force's more important recommendation was for the establishment of a new Presidential Task Force on Victims of Crime which occurred in 1982. The Task Force held six hearings and produced a final report with 68 recommendations for improving assistance to victims of crime.

In anticipation of that report, NOVA undertook two major projects to consolidate knowledge on victim services. The first, with the support of the Office of Justice Assistance, Research and Statistics, was a field study of fifty victim assistance programs in which narrative accounts of program directors and their staff were collected to document the kinds of services provided. In addition, policies, protocols, and practices were gathered for reference and to serve as a resource to other programs. The second was a strategic planning process was implemented to examine the threats and opportunities facing victim service programs and to identify the main steps that should be taken to ensure their viability and stability. That process helped to establish a long-range plan for developing comprehensive training for victim advocates and their allied professionals in criminal justice, medicine, mental health, the clergy, and education.



## History of the Victims' Movement

The Task Force's Report was instrumental in four critical initiatives in the 1980s.

First, it recommended the development of federal legislation that would establish a federal Office for Victims of Crime (OVC) in the U.S. Department of Justice and federal funding to victim compensation programs and local victim assistance programs. That recommendation was the precipitating force for the enactment of the Victims of Crime Act (VOCA) of 1984. The Act established a Crime Victims Fund based on the collection of fines from federal criminals to be used to support state compensation and local victim assistance programs.

Second, it made recommendations to professionals in the criminal justice system and associated professions on how they could improve treatment to crime victims. These recommendations were key to the development of training programs for law enforcement, prosecutors, judges, corrections personnel, health and mental health, and the clergy. The 1983 National Conference on the Judiciary and Victim Rights was a direct spin-off of the Task Force's recommendations on the judiciary and served as a major impetus to change in judicial policies and attitudes.

Third, it recommended an additional Task Force on violence with families which resulted in the establishment of the Attorney General's Task Force on Family Violence in 1983 with a Report published in 1984. That Report was a stimulus to federal action requiring state compensation programs to include victims of family violence, if they were to receive federal funds.

Fourth, it recommended an amendment to the U.S. Constitution through which victims would have a right to be "present and heard at all critical stages of judicial proceedings." That recommendation sparked the interest of victims and their advocates and by 1986 a national victims constitutional amendment network had been established to seek state constitutional amendments on victim rights.

In the four years that followed the President's Task Force's Report, the Office for Justice Programs (OJP) and OVC worked closely with NOVA to implement the recommendations. States began receiving funds under VOCA in 1985, training programs for criminal justice professionals were designed and disseminated widely, standards for service for victim programs were developed, and regional training programs for victim service providers were designed and presented throughout the nation.

Victim oriented justice gained international recognition with the adoption by the United Nations of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of power in 1985. This document helped spur other nations to instituting or expanding victim rights and services. The United Kingdom had established victim support schemes in the early 1970s, their orientation was primarily towards counseling and crisis intervention. The 1980s brought new proposals for the victims involvement in the criminal justice system. Germany, which had a long tradition of allowing victims a voice in the criminal justice process, began to consider victim assistance as a way of providing support for that voice. France had the opportunity for victim participation through the *partie civile* system in which civil claims of victims are merged with criminal proceedings. But, the impetus of the Declaration encouraged France to develop a nationwide network of victim assistance programs. These and other international steps towards broader victim participation in turn served as stimuli for U.S. victim programs.



## National Symposium on Federal Crime Victims

The development of a new Model Victim Assistance Program Brief in 1986-1988 by NOVA with the support of OVC served as a planning, management, and evaluation tool. It articulated of eight basic services that programs should provide: crisis intervention, counseling and advocacy, support during criminal investigation, support during prosecution, support after case disposition, crime prevention, public education, and training of allied professions. It became a standard reference for many states.

States were also moving rapidly to institutionalize victim assistance through legislation and the development of statewide networks of service. Bills of rights were adopted in every state by 1990. The federal government enacted the Victim Rights and Restitution Act in 1990.

The 1980's also was marked by the growth of the victim's movement and its expansion new constituencies. The National Victim Center was founded in 1985 to commemorate Sonny von Bulow. Victim Advocacy Legal Organization (VALOR) became prominent as its founder, Frank Carrington, helped to develop and promote civil litigation on behalf of crime victims. The National Center for Missing and Exploited Children was established. The International Association of Chiefs of Police established a Victims Committee and announced a law enforcement bill of rights for victims. The American Corrections Association issued 16 recommendations for better treatment of victims. The American Probation and Parole Association developed program goals on victims. The Spiritual Dimension became a source of education and training for clergy on victim issues. Neighbors Who Care was initiated by Justice Fellowship to develop victim assistance within religious communities. The International Society of Traumatic Stress Studies and the International Association of Trauma Counseling (IATC) were established to serve as research and education resources for individuals working in the field of trauma.

The changes in the understanding of the trauma of victimization was particularly important during the 1980s. The American Psychiatric Association's Diagnostic and Statistical Manual, IIIrd Rev., had included a description of Post Traumatic Stress Disorder in 1980 that became a fundamental part of the training of victim and trauma counselors. The revisions in 1986 and the continuing studies of trauma and its impact shaped the way crisis intervention developed as well as concepts of long term counseling. More and more emphasis was placed on early intervention and the need for supportive follow-up services. As survivors of trauma began to tell their stories in more detail, service providers began to realize that not only direct victims of crime were affected by criminal attack but also their friends, families and often communities as a whole.

Drawing upon the experiences of seasoned crisis intervenors, trauma research, and psychological intervention strategies developed for emergency responders after critical incidents, NOVA initiated a practical model for community crisis intervention in the aftermath of tragedy. Its first national crisis response team was fielded in 1986 after the mass murders committed by Patrick Sherrill in the Edmond, Oklahoma post office prior to his suicide. The success of that effort engendered the birth of NOVA's National Crisis Response Project that made trained volunteer crisis intervenors available to communities in crisis to address the emotional impact of crime and other disasters. It also influenced the growth of new local and state networks of crisis response teams in many jurisdictions designed to plan for and coordinate crisis response efforts should a catastrophe occur.

Victim rights and the cry for more compassionate treatment of victims became integrated in the lexicon of the common citizen toward the end of the eighties. It was not unusual to see television

## History of the Victims' Movement

programs and made for television movies on victim-related issues. The media developed a schizophrenic relationship with victims. On the one hand, media reporters and writers took the victim issue to heart with articles and documentaries on the trauma of victimization. On the other hand, victims and their advocates continued to see media sensationalism of sensitive subjects and exploitation of victims in crisis.

The double-edged sword of public acceptance of victim concerns was apparent in other ways. Citizens began to expect victim rights to be honored and victim services to be available. At the same time, it became obvious that unless legal action was taken, bills of rights for victims or constitutional amendments on victim rights were not enforced. Funding of victim assistance programs remained instable. As budget cuts were faced in states, victim services were often the least recognized programs. Even when victims were allowed to participate in the system, the effects were ambiguous. And, most importantly, crime and violence continued to make a significant number of the population victims each year.

The victims movement had matured but there remained a lot of work to do before victims could be certain of a fair and compassionate response to their plight.

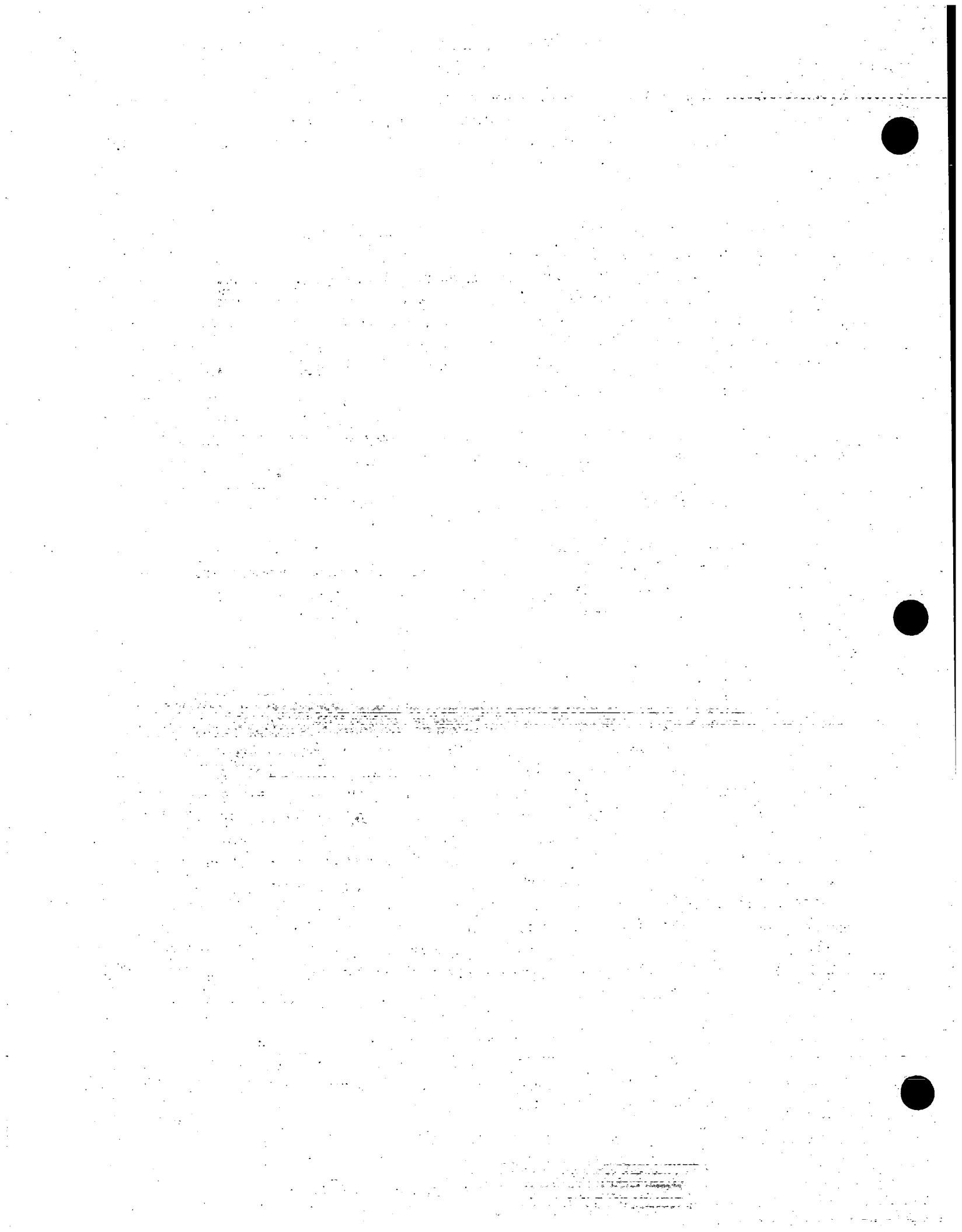
### **The Present: Maturity and Transition**

The history of the victims movement has been one marked by many diverse influences and one that has shaped an emerging multi-disciplinary profession as well as radically reformed the legal system. In 1996, the highlights of the state of the art of victim assistance today can be divided into three key areas: theory and research, program and professional development, and public policy.

#### **Theory and research**

The victim assistance field has benefited greatly from the progress made in trauma research. The Diagnostic and Statistical Manual in its IVth Revision altered the description of PTSD to include a subjective perception of trauma which confirmed observations of victim service providers that not all victims of crime or other crises suffer long-term trauma. And, it included a description of Acute Stress Disorder that is useful in helping to further define what many victims experience as the crisis reaction. Mental health professionals in their studies leading up to the publication of the DSMIV also began to examine another dimension in long term stress relating to victimization termed the Diagnosis of Extreme Stress Not Otherwise Specified (DESNOS). The symptoms characterizing this proposed diagnosis may occur in persons who have survived complex, prolonged or repeated trauma in which they have been subjected to coercive control. Such control may be imposed through violence or threat of violence; control of bodily functions; capricious enforcement of petty rules; intermittent rewards; isolation; degradation; enforced participation in the violence. While not included yet in the DSM, this description may be useful in interventions with chronically abused persons such as battered women, sexually abused children, torture victims, and victims of hostage-taking or kidnapping.

The value of these advances in trauma research is twofold. Victim service providers have found that providing descriptions of symptoms of trauma to victims helps to validate their experience and to better understand their own reactions. And, secondly, the descriptions aid providers in determining when a mental health referral may be useful.



105TH CONGRESS  
1ST SESSION

## IN THE SENATE OF THE UNITED STATES

MR. KYL (for himself and MRS. FEINSTEIN) introduced the following joint resolution: which was read twice and referred to the Committee on the Judiciary

### JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States  
to protect the rights of crime victims.

1                    *Resolved by the Senate and House of Representatives of the*  
2                    *United States of America in Congress assembled (two-thirds of each*  
3                    *House concurring therein). That the following article is proposed as*  
4                    *an amendment to the Constitution of the United States, which shall be*  
5                    *valid for all intents and purposes as part of the Constitution when*  
6                    *ratified by the legislatures of three-fourths of the several States within*  
7                    *seven years from the date of its submission by the Congress:*

1           Section 1. Each victim of a crime of violence, and other crimes  
2 that Congress may define by law, shall have the rights to notice of,  
3 and not to be excluded from, all public proceedings relating to the  
4 crime;

5  
6           To be heard, if present, and to submit a written statement at a  
7 public pre-trial or trial proceeding to determine a release from  
8 custody, an acceptance of a negotiated plea, or a sentence;

9  
10          To the rights described in the preceding portions of this section  
11 at a public parole proceeding, or at a non-public parole proceeding to  
12 the extent they are afforded to the convicted offender;

13  
14          To notice of a release pursuant to a public or parole proceeding  
15 or an escape;

16  
17          To a final disposition of the proceedings relating to the crime  
18 free from unreasonable delay;

19  
20          To an order of restitution from the convicted offender;

21  
22          To consideration for the safety of the victim in determining any  
23 release from custody; --And

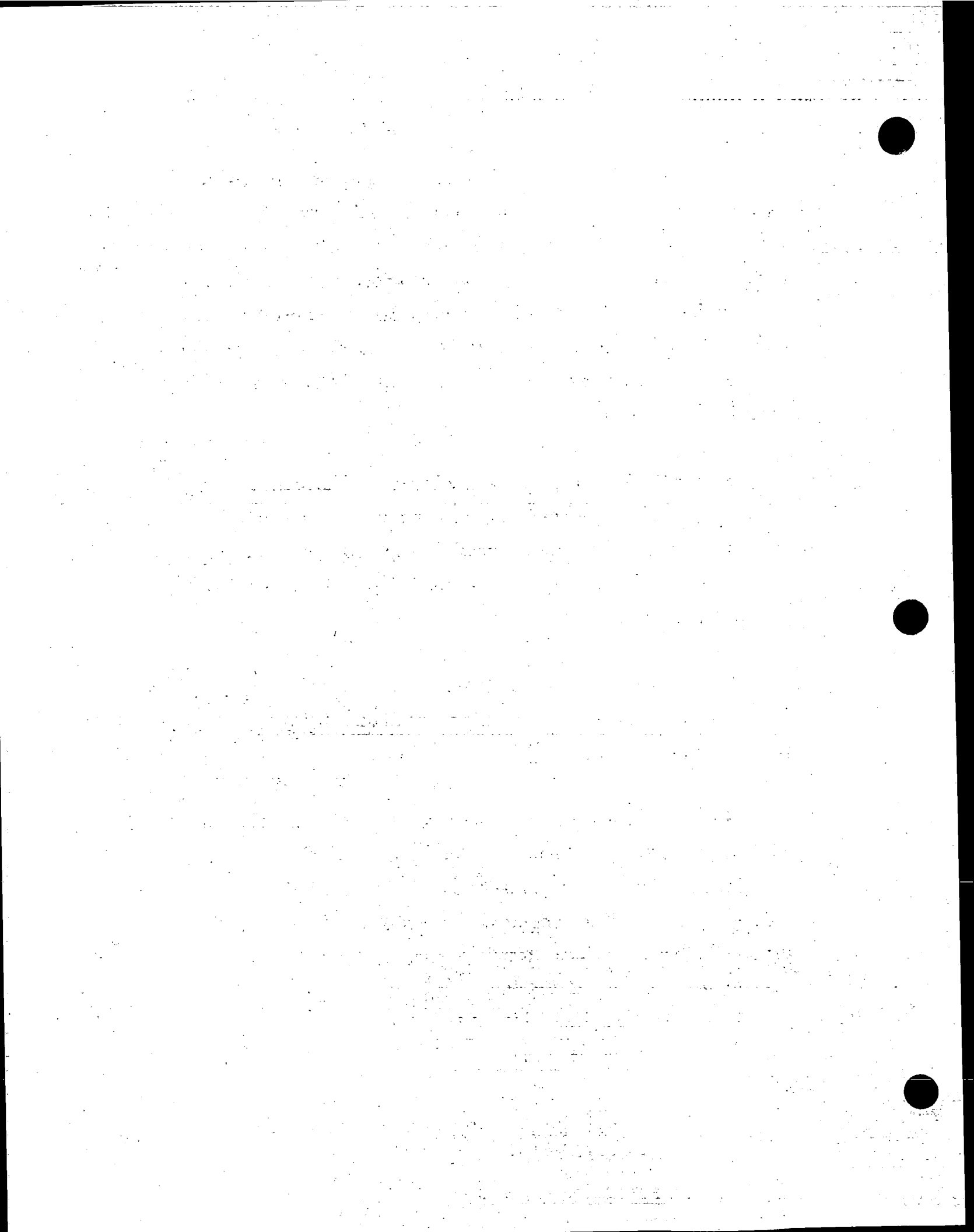
24  
25          To notice of the rights established by this article; however, the  
26 rights to notice under this section are not violated if the proper  
27 authorities make a reasonable effort, but are unable to provide the  
28 notice, or if the failure of the victim to make a reasonable effort to  
29 make those authorities aware of the victim's whereabouts prevents  
30 that notice.

2           Section 2. The victim shall have standing to assert the rights  
3 established by this article. However, nothing in this article shall  
4 provide grounds for the victim to challenge a charging decision or a  
5 conviction; to obtain a stay of trial; or to compel a new trial. Nothing  
6 in this article shall give rise to a claim for damages against the United  
7 States, a State, a political subdivision, or a public official, nor provide  
8 grounds for the accused or convicted offender to obtain any form of  
9 relief.

10  
11           Section 3. The Congress and the States shall have the power to  
12 enforce this article within their respective jurisdictions by appropriate  
13 legislation, including the power to enact exceptions when required for  
14 compelling reasons of public safety or for judicial efficiency in mass  
15 victim cases.

16  
17           Section 4. The rights established by this article shall apply to  
18 all proceedings that begin on or after the 180th day after the  
19 ratification of this article.

20  
21           Section 5. The rights established by this article shall apply in  
22 all Federal and State proceedings, including military proceedings to  
23 the extent that Congress may provide by law, juvenile justice  
24 proceedings, and collateral proceedings such as habeas corpus, and  
25 including proceedings in any district or territory of the United States  
26 not within a State.  
27





## U.S. Department of Justice

Washington, D.C. 20530

**VIOLENCE AGAINST WOMEN OFFICE**

In March of 1995, President Clinton named Bonnie Campbell, former Attorney General of Iowa, to be Director of the Violence Against Women Office at the Department of Justice. In making the announcement, the President noted "for the first time in history, the federal government becomes a full time partner in the fight to curb violence against women." The Department's Violence Against Women Office leads a comprehensive national effort to combine tough new federal laws with assistance to states and localities to fight domestic violence and other crimes against women.

The 1994 Crime Act was landmark legislation for all victims of crime and demonstrates the commitment of President Clinton and the Congress to make real progress in the areas of law enforcement, victim assistance, prosecutions and crime prevention. The Violence Against Women Act, enacted as part of that law, makes it a crime to cross state lines to continue to abuse a spouse or partner, creates tough new penalties for sex offenders, and prohibits anyone facing a restraining order for domestic abuse from possessing a firearm.

In addition, the Violence Against Women Act provides a substantial commitment of federal resources -- more than \$1.6 billion over six years -- for police, prosecutors, prevention programs and victim service initiatives in cases involving sexual violence or domestic abuse. Also, the Act requires sexual offenders to pay restitution to their victims, requires states to pay for rape examinations, provides \$1.5 million for federal victim-witness counselors and extends rape shield laws to protect crime victims from abusive inquiries into their private conduct. Another section of the crime bill makes an important change in the law to protect women and children from released rapists and other sexual predators -- the Jacob Wetterling Act requires that released offenders must be reported to local law enforcement authorities.

Ms. Campbell is responsible for the overall coordination and focus of Department of Justice efforts to combat violence against women, and she serves as the Department's primary point of contact for other federal agencies, state and local governments, outside organizations, and Congress. Within the Department of Justice, Ms. Campbell works closely with the President's COPS Director and with community police officers to help reduce domestic violence and other crimes against women in America's neighborhoods. She brings broader public attention to on-going programs through meetings throughout the country with law enforcement and advocacy groups, and through public appearances and media interviews.

MARCH 1996





## U.S. Department of Justice

Washington, D.C. 20530

**THE VIOLENCE AGAINST WOMEN ACT**

*In 1994, 4.7 million women were victims of violent crime, and most of these crimes were committed by someone they knew.*

Source: Department of Justice  
National Crime Victimization Survey, August 1996

*On September 13, 1994, President Clinton signed into law the Violence Against Women Act, landmark legislation that combines tough new sanctions with programs to prosecute offenders and help women victims of violence.*

**FIGHTING VIOLENCE AGAINST WOMEN**

- ◆ The Violence Against Women Act, Pub. L. No. 103-322, 108 Stat. 1902-1955 (1994), passed as part of the Violent Crime Control and Law Enforcement Act of 1994. The Act takes a comprehensive approach to domestic violence and sexual assault, combining a broad array of legal and practical reforms.
- ◆ The Violence Against Women Act encourages better responses to domestic violence from police, prosecutors, and judges; forces sex offenders to pay restitution to their victims; increases funding for battered women's shelters; and provides for interstate enforcement of protection orders.

**THE LAW WORKS FOR VICTIMS**

- ◆ The Violence Against Women Act protects battered women who move across state lines. The Act establishes the nationwide enforcement of protection of abuse orders entered in any court and provides penalties for crossing state lines to abuse a spouse or violate a protection order. Now, when it is appropriate, Federal, state, and local prosecutors can work together to determine who can bring the most effective prosecutions. As of September 1996, 20 Federal cases had been brought under Federal criminal provisions of the Act.

- ◆ The Violence Against Women Act bans firearm possession by abusers who are under protection orders. As of September 1996, three Federal cases have been brought under this provision of the Act.
- ◆ The Violence Against Women Act established a Federal cause of action for gender-motivated violence. Victims of a felony crime of violence motivated at least in part by gender may bring a civil suit for damages or equitable relief in Federal or state court.
- ◆ The Violence Against Women Act enhances and protects the rights of crime victims. Among other provisions, the new law strengthens restitution orders and extends the "rape shield law" to protect victims from intrusive inquiries regarding their private sexual conduct.

### THE NATIONAL DOMESTIC VIOLENCE HOTLINE

- ◆ The National Domestic Violence Hotline is one solution that promises to reach every community in the nation. A critical component of the Violence Against Women Act, this nationwide, 24-hour, toll-free hotline will serve as a lifeline to victims of domestic violence across the country, providing local referral information to victims in need. It was announced by President Clinton on February 21, 1996.
- ◆ From its opening through May 31, 1996, NDVH advocates have answered 42,285 calls for help from residents of the 50 states, District of Columbia, Puerto Rico and the U.S. Virgin Islands. The Hotline's toll-free numbers are 1-800-799-SAFE or 1-800-787-3224 (TDD).

### FUNDING TO THE STATES

- ◆ In FY 95, the Department of Justice S\*T\*O\*P Violence Against Women Grant Program (Services\*Training\*Officers\*Prosecutors) provided approximately \$26 million directly to states and Indian tribes as a first step in helping restructure the criminal justice system's response to crimes of violence against women. Through a streamlined application kit, \$426,346 was awarded to all 50 states and six territories in an expedited process.
- ◆ In FY-96, Congress appropriated \$130 million to continue the S.T.O.P. program. States are encouraged to build on their current efforts and to focus on projects that will strengthen intra- and interstate enforcement of protection orders; to develop innovative programs related to sexual assault and stalking; and to increase their emphasis on judicial education and court-related projects. Awards are planned by the end of August.
- ◆ In FY 96, Congress appropriated \$28 million for grants to Encourage Arrest Policies. This discretionary grant programs encourages States and localities to treat domestic violence as a serious violation of criminal law. This program is intended to promote

the implementation of mandatory or pro-arrest policies relating to domestic violence cases. Grants are to be awarded to the states by September 30. No money was appropriated for this grant program in FY 95.

- ◆ In FY 96, Congress appropriated \$7 million for the Rural Domestic Violence and Child Victimization Enforcement grant program. This discretionary grant program is intended to support the establishment and expansion of cooperative efforts among law enforcement officers, prosecutors, victim advocates, and other criminal justice practitioners and service providers involved in the investigation and prosecution of domestic violence and child abuse cases in rural jurisdictions. Grants are to be awarded to the states by September 30. No money was appropriated for this grant program in FY 95.
- ◆ In addition to the VAWA grants, the Department has announced \$46 million under the Community Oriented Policing to Combat Domestic Violence grant program. These grants were developed in response to the real needs expressed by law enforcement officers, many of whom report that domestic violence incidents are the most dangerous and difficult encounters they experience on the job. The response to this program by police departments has been overwhelming -- over 700 agencies applied for assistance. 336 police departments, working in partnership with victim advocates and others in their community, will receive funding to develop domestic violence programs that utilize the proven techniques of community policing.

#### STEPS ALONG THE WAY...

- ◆ On March 21, 1995, the President named Bonnie Campbell as Director of the Violence Against Women Office at the Department of Justice.
- ◆ Also on March 21, 1995, the President announced \$26 million in S\*T\*O\*P grants to states to bolster their law enforcement, prosecution, and victims services to better address violence against women.
- ◆ On April 7, 1995, Attorney General Janet Reno signed Federal guidelines that should lead to laws in all 50 states requiring sexual offenders and child molesters to register with authorities. This will help state law enforcement agencies communicate with each other regarding sex offenders who cross state lines.
- ◆ On July 13, 1995, the Attorney General and Secretary Shalala announced the Advisory Council on Violence Against Women and held the first meeting of this group of 46 experts on the issue of violence against women.
- ◆ On July 27-29, 1995, the Department of Justice held the first ever Violence Against Women Grantee's Conference. Representatives from all 50 states and the territories attended the conference, where they exchanged stories of success and considered challenges in dealing with domestic violence in their communities and across state lines.

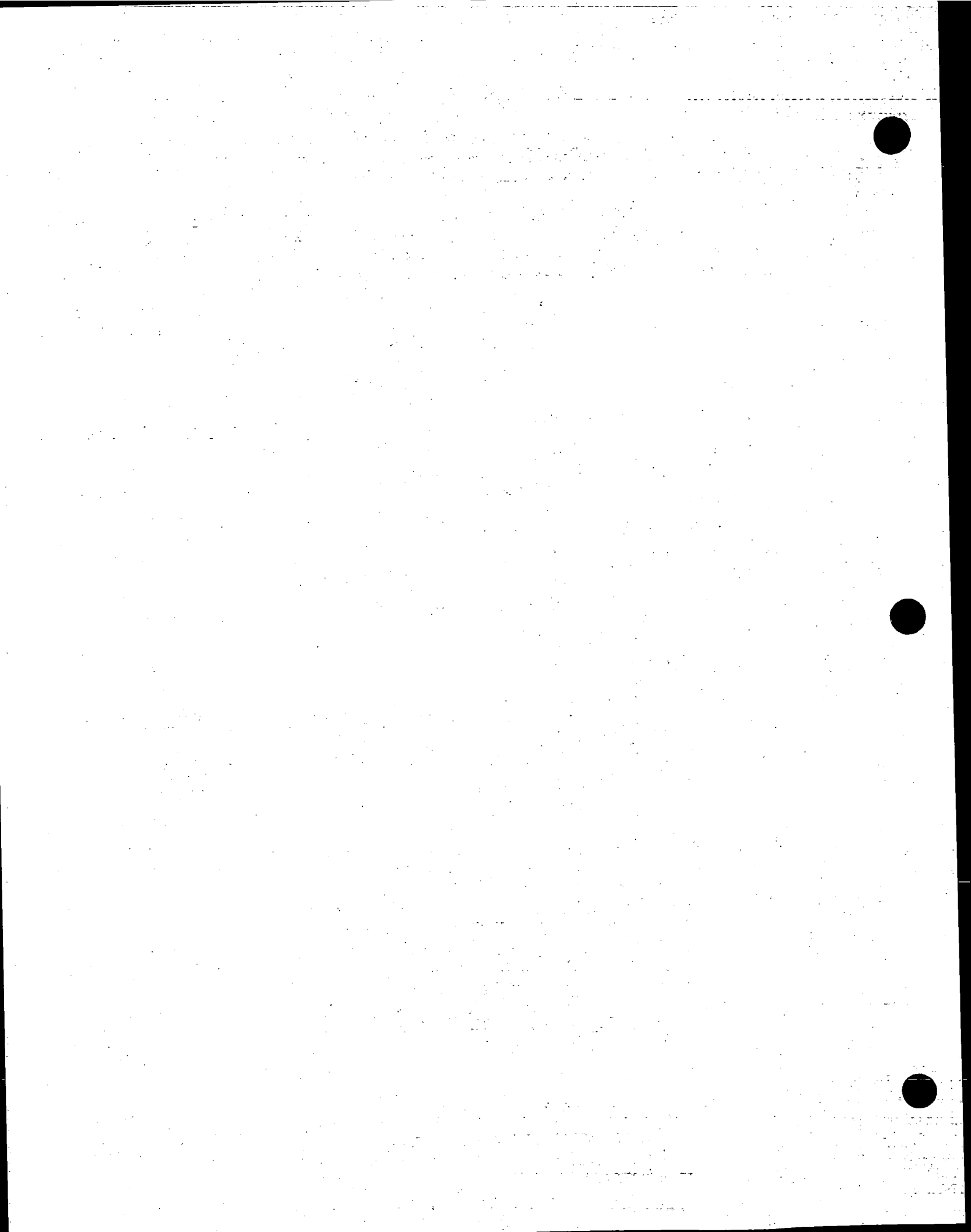
- ◆ On August 18, 1995, Health and Human Services Secretary Donna Shalala awarded \$1 million to the Texas Council on Family Violence to set up a hotline for victims of domestic violence. The hotline operates through the fifty states, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.
- ◆ The Violence Against Women Act punishes domestic abusers who cross state lines. The first conviction under this new federal law took place on May 23, 1995 in West Virginia. On September 1, 1995, the defendant was sentenced to life in prison for interstate domestic violence and kidnapping.
- ◆ Bonnie Campbell attended the Fourth World Conference on Women in Beijing as a U.S. Delegate from September 1-15, 1995.
- ◆ On September 8, 1995, the Attorney General announced the Community Policing to Combat Domestic Violence Grant Program. This \$20 million grant program is the first of its kind. It is open to all state, local, Indian Tribal and other public and private law enforcement agencies committed to using community policing to address domestic violence. Police departments must partner with nonprofit, nongovernmental victim service programs, domestic violence shelters, or community service groups to apply for funding under this solicitation.
- ◆ On September 28, 1995, Bonnie Campbell convened the first meeting of the Interagency Working Group on Violence Against Women to examine what other components of the federal government are doing and what they can do to fight violence against women.
- ◆ On October 2, 1995 President Clinton signed a Presidential Proclamation declaring the month of October as National Domestic Violence Awareness Month and sent an Executive Memorandum to the heads of all executive departments and agencies to implement a Federal Employee Domestic Violence Awareness Campaign.
- ◆ On October 14, 1995 President Clinton used his weekly radio address as an opportunity to discuss the problem of domestic violence, noting that as a child he witnessed domestic violence firsthand.
- ◆ On October 30, 1995 the Department of Justice held a Violence Against Women Information Fair for its employees as part the Federal Employee Domestic Violence Awareness Campaign. The Fair included a self-defense demonstration, information booths by national and local organizations dealing with domestic violence and violence against women, artwork by survivors of domestic violence, and video presentations.
- ◆ On January 25, 1996 the Advisory Council on Violence Against Women held its second meeting. At that meeting the following subgroups made recommendations of initiatives to amplify messages about violence against women and to encourage a greater public awareness around the issue: *Media & Entertainment, Educational Institutions, the Religious Community, the Workplace, the Sports Industry, the Health Profession and Law Enforcement*. An eighth subgroup, *Primary and Secondary*

*Education*, was added at the recommendation of the Advisory Council because of the impact domestic violence has on children.

- ◆ Also on January 25, 1996, the Attorney General announced that the S.T.O.P. Violence Against Women state plans of all 56 states and eligible territories have been approved signifying that all have received \$426,364 to improve prosecution, training and services to victims of violent crimes.
- ◆ On February 21, 1996, President Clinton announced the National Domestic Violence Hotline, 1-800-799-SAFE or 1-800-787-3224 (TDD). The Hotline is a nationwide, 24-hour, toll-free number. The hotline provides immediate crisis intervention assistance to those in need. To date, the hotline has received more than 42,000 calls.
- ◆ On May 15, 1996, the Attorney General testified before the Senate Judiciary Committee on the first year of the Violence Against Women Act and the Violence Against Women Office.
- ◆ In May, Congress took several steps to strengthen the Jacob Wetterling Act in passing the community notification requirement of Megan's Law, and on May 17, 1996, the President, who has always been supportive of Megan's Law, signed it into law.
- ◆ On May 24, 1996, the Department of Justice announced the availability of \$130 million in grant funding for the states to assist police, prosecutors, and victim service providers in combating domestic violence and sexual assault. The S.T.O.P. Violence Against Women formula grants were authorized by the Violence Crime Control and Law Enforcement Act of 1994.
- ◆ On May 28, 1996, the Department of Justice began distribution of a resource book, *Domestic Violence Awareness: What You Can Do*, to all of its 96,000 employees. This resource book is one of the steps in the Department's Violence Against Women Employee Awareness Campaign.
- ◆ On June 20, the Office of Community Oriented Policing Services (COPS) announced \$46 million to be awarded to 336 police departments. Working in partnership with victim advocates and others in their community. The funding will be used to develop domestic violence programs that utilize the proven techniques of community policing.
- ◆ On July 18, 1996, the Advisory Council on Violence Against Women met for the third time. The purpose of this meeting was review efforts made since the January meeting as well as to draft a *Community Checklist: Important Steps Communities Can Take to End Violence Against Women*. The checklist will be published in October 1996.
- ◆ In August 26, 1996 the President announced his support of legislation to prohibit anyone convicted of any crime of domestic violence--misdemeanor or felony--from owning and possessing a firearm.
- ◆ On September 20, 1996, Director Campbell convened a meeting of the Interagency Working Group on Violence Against Women to discuss what steps they are taking to prevent violence against women in the workforce.

- ◆ On September 21, 1996 the President announced that the FBI would set up a national registry of sex offenders to provide law enforcement agencies across the nation immediate access to information about where offenders live.
- ◆ On September 23, 1996, the President signed a bill that makes interstate stalking and harassment a Federal crime regardless of whether the stalker has committed an act of violence or subject victim had a court order of protection. It also sets penalties from up to 5 years in prison for harassment to life in prison for bodily injury.

September 24, 1996



#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

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##### **A. REQUIREMENTS FOR VICTIM-WITNESS ASSISTANCE**

The Attorney General Guidelines for Victim and Witness Assistance, 1995, recognizes the important role of crime victims and witnesses in the criminal justice process. Its goals are to ensure that the federal government assist victims and witnesses "without infringing on the constitutional rights of defendants" and to supply a model for state and local government legislation. The Attorney General Guidelines best describes the responsibilities of the Department of Justice agencies in ensuring that victims of crime are afforded their rights. The Victim and Witness Protection Act of 1982 set forth the "Crime Victims' Bill of Rights". Subsequent Acts have strengthened the rights of victims. A crime victim has the following rights under 42 U.S.C. Section 10606(b):

- The right to be treated with fairness and with respect for the victims' dignity and privacy.
- The right to be reasonably protected from the accused offender.
- The right to be notified of court proceedings.
- The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
- The right to confer with an attorney for the Government in the case.
- The right to restitution.
- The right to information about the conviction, sentencing, imprisonment, and release of the offender.

Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded these rights.



#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

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##### **B. THE ROLE OF A VICTIM-WITNESS COORDINATOR**

The Victim-Witness Coordinator position can be structured in many different ways, depending upon the size and configuration of the district and the United States Attorney's Office. Much of the day-to-day implementation of the Victim and Witness Protection Act of 1982 should fall to the individual Assistant United States Attorneys and their secretaries, leaving the Victim-Witness Coordinator to oversee the program and coordinate its implementation. A Coordinator should be able to do the following:

- **Establish Procedures for the Entire Office:** Form letters, a directory of referrals, and witness management procedures (such as establishment of a GTS account for fact witnesses) should be in place for everyone.
- **Offer Training:** Once procedures are in place throughout the office, the Coordinator can teach everyone involved how the system works. Additionally, the Coordinator can train any new employees about the procedures and their responsibilities to victims.
- **Act as the Expert:** The Coordinator should be the in-house "expert" on issues related to victims and witnesses. The Coordinator should be easily accessible to all professional and support staff. The Coordinator should attend victim-witness training conferences offered throughout the year and work with national victims' organizations when appropriate.
- **Serve as Liaison to Victim Service Agencies:** The Coordinator should act as the liaison with all other victim services agencies in the district. Coordinators should be familiar with the services provided in order to make referrals to victims when necessary.
- **Provide Special Attention to Certain Victims or Witnesses:** When asked, the Coordinator (or trained victim advocates) should assist Assistant United States Attorneys by providing supportive counseling and/or court accompaniment to selected crime victims and witnesses.

#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

##### **C. SETTING UP A VICTIM ASSISTANCE PROGRAM**

- Research the Law and Federal Court Procedures: Read the *Victim and Witness Protection ACT of 1982*, the *Attorney General's Guidelines for Victim and Witness Assistance*, *Victims of Crime Act of 1984*, and other DOJ-prepared materials that discuss victims' issues. Next, you should become familiar with the *Federal Rules of Criminal Procedures* and the often complex federal criminal justice system, learn office policies, and attend detention hearings, trials, and other court-related hearings. Consult with experts who can fully explain complex issues. Experienced Assistant United States Attorneys, other Victim-Witness Coordinators, the LECC/Victim-Witness Staff, and Office for Victims of Crime staff are often good sources.
- Determine Prosecution Focus and Caseload of Your District: Before developing a program to meet the needs of your district, you research the caseload. You can begin this process by asking your Computer/Promis Systems Manager to run a statistical analysis of all cases submitted to your district within the last fiscal year. The results of this study will enable you to define the specific goals and structure of your program. For example, if the district has a large violent crime caseload, the program may be structured to meet victim's needs. If, however, the district has very few victims of violent crime, the program might focus more on witness management (witness management is discussed elsewhere in this manual).
- Identify Existing Victims Services: Determine the resources within your district that can provide appropriate counseling, medical, financial, and compensatory assistance for victims. Assess your district's program for measuring victim impact. Review the impact statements and letters used in your office to communicate with victims and witnesses, making sure that they are "user friendly" and that they minimize the use of complex court terms.

Contact all well-established state and local programs that provide assistance to crime victims. You should obtain any resource directories these programs utilize, and develop professional relationships with these people. If your state has a victim compensation program, you should get to know the program director and learn the eligibility requirements. Obtain the necessary application forms that can be provided to federal victims of crime. If your district has responsibility over federal Indian reservations, you should get to know the area directors of the Bureau of Indian Affairs Social Services and Indian Health Services. These individuals can inform you of the resources available to native American victims of crime. In addition, this will give you an opportunity to inform them about your intentions to assist victims. These contacts will increase coordination, cooperation, and networking of all appropriate agencies, organizations, and groups providing services to victims of crime.

Once initial contact has been made, develop a written directory of all available resources. This directory will be invaluable to you and can be provided to all Assistant United States Attorneys and federal law enforcement agencies.

#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

- Determine What Victims Services Are Already Being Provided in Your Office: Most likely, numerous services to victims are already being provided to victims in your district. You should consult with Assistant United States Attorneys and their secretaries to determine their procedures in dealing with victims and to determine your role in the process. If procedures are working well, you should consider leaving those tasks in place, and determine what you can do to expand into what is not being done.
- Survey the Level of Staff Support: Determine what staff support you may require to assist in operating the program. If none is available, then structure the program realistically. It may be impossible for one person to provide comprehensive assistance to all victims. Develop a list of services to reflect what you can realistically achieve. You may also wish to consider developing a Victim-Witness Student Internship Program to assist in providing services to victims and witness.
- Obtain Input From Others: Office personnel and other federal agencies will be more cooperative if they feel they provided input into the development of your victim-witness program. In addition, this will give you an opportunity to educate these individuals about victims issues. Individually talk to Assistant United States Attorneys and determine their thoughts and ideas about what should be included in the program. Emphasize the benefits of the program, such as taking some of the burden off their shoulders, and how assisting victims often can lead to more successful prosecution of these cases.

Get to know your counterparts in the federal investigative agencies. Offer to assist in the development of local guidelines, if necessary, and emphasize the benefits of the program and how it will assist them in a more successful investigation of these cases.
- Form a Victim-Witness Subcommittee: A Subcommittee can be a useful tool in establishing coordination and cooperation among all agencies. Subcommittee members can include designated Assistant United States Attorneys as well as representatives from federal law enforcement agencies, federal probation and area social services providers. These key individuals can provide input into development and on-going operations of your program. Consider the development of a district referral brochure for use by federal law enforcement agencies.
- Formalize the Program: Written policies and procedures will be an important step in integrating your program into normal office operations. Even the smallest program should have a central reference of information for easy access by all staff. Develop case forms, keep track of case records within the office, and establish procedures for collecting statistical information. Meet with your supervisor (e.g., United States Attorney or First Assistant), and discuss your findings and recommendations for implementing the program.

#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

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##### D. VICTIM IDENTIFICATION

Under the *Attorney General's Guidelines for Victim and Witness Assistance*, a victim is defined as "someone who suffers direct or threatened physical, emotional or financial harm as a result of the commission of a crime." The term victim also includes the immediate family of a minor or a homicide victim. These victims can be identified when a case is brought to the United States Attorney's office in the pre-indictment stage of the case. The Victim-Witness Coordinator should alert the Assistant United States Attorneys of the need to identify the victim as soon as possible. This can be done regardless of an arrest.

The definition of serious crime is "a criminal offense that involves personal violence, attempted or threatened personal violence, or significant property loss." Significant property loss is recognized as a loss of \$1000 per victim, with the understanding that a case-by-case analysis by the assigned prosecutor may result in exceptions.

When a criminal case is opened and victims are identified, a Victim-Witness Program Summary Checklist should be attached to each case jacket and filled out as the case progresses.

#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

##### **E. VICTIM NOTIFICATION**

The victim of a serious crime should be notified of the following information:

- Scheduling changes and/or continuances affecting their appearance or attendance at court proceedings.
- The release or detention status of the accused.
- The acceptance of a guilty plea or results of a trial.
- The date of sentencing if the defendant is found guilty.
- The sentence imposed, including the date on which the defendant may be eligible for parole.

Once a victim is identified, the Victim-Witness Coordinator, Assistant United States Attorney, or other designated person should make contact with him/her, either by telephone or by letter. Victim notification letters can be helpful to United States Attorney staff in limiting the number of inquiring phone calls, especially in a case with multiple victims. Victims should be informed of their rights and asked whether they want to be kept informed of the status of the case.

In fraud cases that have a large number of victims, when appropriate, one victim may be designated as the representative for the entire group to ensure that all receive the most up-to-date information on the status of the case. A corporation that is victimized also may be considered a victim. For example, a bank which has been defrauded should be offered the opportunity to designate a contact person to be kept informed of case proceedings.

Other information that should be given to victims includes a discussion of the victim's right to be protected from intimidation and harassment; the right to file a victim-impact statement (procedures vary depending on the judge); and, if there is a conviction, the right to be notified of changes in the prisoner's status by the Bureau of Prisons.

Form letters of notification can be computerized and sent out by each Assistant United States Attorney's secretary. Sample form letters can be obtained from the LECC/VW Staff.

#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

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##### **F. REFERRALS TO SERVICE AGENCIES**

When the victim is identified, the Victim-Witness Coordinator should refer the victim to the appropriate direct-services agency, e.g., rape crisis centers, crime victims centers, or other counseling and treatment programs in their jurisdictions. Some of these agencies receive funds from the federal Office for Victims of Crimes (OVC) and are obligated to provide services to federal crime victims. The LECC/Victim-Witness Staff can provide Coordinators with the names of state directors who distribute federal funds to agencies in the state. Contact can be made through state compensation boards, local victim assistance programs, state victim assistance programs, or other financial assistance programs.

Each Victim-Witness Coordinator should compile or acquire a directory of existing victim services agencies in the district to facilitate referrals for victims. Most community-based agencies will provide service to any victim of a crime occurring in their jurisdiction. Though services vary widely from state to state depending on the amount of federal and state resources available, victim assistance services are available to crime victims in every state.

#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

##### **G. VIOLENCE AGAINST WOMEN ACT**

Enacted as part of the Violent Crime Control and Law Enforcement Act of 1994, the Violence Against Women Act is landmark legislation -- combining tough law enforcement strategies with important safeguards for victims of domestic violence and sexual assault. In its first year, the Violence Against Women Act and related provisions have proven extremely effective in our effort to curb domestic violence offenses and to provide protection and peace of mind for women and their families concerned about violent sex offenders. The Department of Justice has adopted an aggressive strategy for fighting violence against women -- working in close coordination with state, tribal, and local law enforcement and other federal agencies.

Federal action on this front comes at a critical time. A recently released Department of Justice Statistics report, based on the National Crime Victimization Survey, confirms that violence against women in America persists:

- In 1992 and 1993, women age 12 or older annually sustained almost 5 million violent victimizations.
- Nearly 75% of all lone-offender violence against women was perpetrated by offenders whom the victims knew.
- In 29% of all violence against women by a lone offender, the perpetrator was an intimate -- a husband, ex-husband, boyfriend or ex-boyfriend.
- Women were about 6 times more likely than men to experience violence committed by an intimate.
- Women annually reported to interviewers about 500,000 rapes and sexual assaults. Friends or acquaintances of the victims committed over half of these rapes or sexual assaults. Strangers were responsible for about 1 in 5.
- Women of all races and Hispanic and non-Hispanic women were about equally vulnerable to violence by an intimate.
- Female victims of violence by an intimate were more often injured by the violence than females victimized by a stranger.

#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

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##### **H. STD/HIV TESTING**

The Executive Office for United States Attorneys has implemented procedures for HIV testing and counseling for the victims of sexual offenses. As stated in the *Attorney General's Guidelines for Victim and Witness Assistance, 1995*, at the earliest opportunity after detection of such a crime, the responsible agency shall make efforts to inform the victim of their right to testing and counseling. The Department will authorize the payment of up to two anonymous and confidential tests and the cost of a counseling session by a medically trained professional.

It should be noted that the Department will not pay for the costs associated with the testing of defendants. These tests are to be done by a state facility, as ordered by the court.



#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

##### I. VICTIM CONSULTATION

The *Attorney General's Guidelines on Victim and Witness Assistance, 1995*, direct Department officials to "consult" victims of serious crimes for their views on pre-trial release or diversion of the defendant, plea agreements, sentencing recommendations, dismissal of charges, declination of prosecution, and restitution.

Victim-Witness Coordinators should be aware that the concept of "consultation" is perhaps the most troublesome requirement of the Act for most prosecutors. "Consultation" is handled differently in each district, with most Assistant United States Attorneys offering explanations about plea agreements, declinations, and dismissals to the victims. Although many victims may not understand the reasons for the legal decision, it is important for the victim to feel that his/her views have been considered and that the Department is doing the best job possible to seek justice in each individual case.

Providing information in these areas to the victims in advance helps maintain a good working relationship between prosecutor and victim and is important, particularly when a plea agreement falls through and a trial is necessary.

#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

##### J. VICTIM IMPACT STATEMENTS

The *Victim-Witness Protection Act of 1982* requires that Department officials include in each Presentence Report "information concerning any harm, including financial, social, psychological, and psychical harm, done to or loss suffered by any victim of the offense."

The Victim-Witness Coordinator and Assistant United States Attorney should ensure that the Probation Officer is advised of the effects of the crime on the victim. The victim should be informed that the Probation Officer is required to prepare a Presentence Report, which includes a victim impact statement and information on restitution. Victims should be told that it is appropriate to send letters to the Probation Officer and the court concerning the impact of the crime on them.

It is the responsibility of the Victim-Witness Coordinator and Assistant United States Attorney to collect this information or to direct the victim to transmit the information to the Probation Officer. Because this material is "discoverable," caution must be exercised (see *The Jencks Act, 18 U.S.C. 3500*, requiring the government to turn over to the defense any "statement" of a witness called by the prosecution which relates to the subject matter of a witness' direct testimony). Disputes have arisen over when to have the victim fill out a victim impact information because of the danger of creating "Jencks material." Many Coordinators suggest to the victims that they keep a journal of their feelings and hardships, as well as accurate records of expenses related to the crime. This material should not be transmitted to the United States Attorney's office until the trial ends.

Most Coordinators have developed their own mechanism for compiling victim information. Some use questionnaires with pre-selected questions specific to the type of crime committed. Samples of questionnaires used in United States Attorneys' offices to gather information for the Probation Officer's report are available from the LECC/Victim-Witness Staff.

Victim impact statements have taken on increased importance in the past decade. The victim impact statement serves as the principal means by which the effect of the crime on the victim can be measured. Where victim harm is substantial, the victim-impact statement can result in an increase in the mandatory sentence served by the defendant.

#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

##### **K. ALLOCUTION AT SENTENCING**

Under the *Attorney General's Guidelines for Victim and Witness Assistance, 1995*, victims of violent crime were given the right to make a statement or present information in relation to the offenders sentence. At the earliest opportunity and within sufficient time for the victim to make a statement that can be presented at sentencing, the prosecutor shall notify the victim by all available and reasonable means of the victims's right to address the court at sentencing and of the date, time, and place of the scheduled hearing.

Victim-Witness Coordinators are responsible for notifying the victim of their right to be heard. This right also applies to pretrial release hearings in domestic violence cases. Parents or legal guardians may speak for child under the age of 18. Victim impact evidence is specifically authorized in federal death penalty cases.

Coordinators have created innovative ways for the victim to be heard. Besides having the victim complete a written victim impact statement, it can be videotaped. One federal court recently allowed the victim to be heard over a speaker phone in the courtroom. Allocution serves two purposes: it may enhance the sentence of the defendant, and it gives the victim an opportunity to be a part of the system.

#### *IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM*

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##### **L. RESTITUTION**

In some cases there is a possibility of restitution. This should be discussed with the victim, and all victims who may claim restitution should be identified as soon as possible. For this purpose, victims should keep accurate records of losses caused by the crime.

Restitution is usually recommended for the victim by the case attorney. In determining whether to order restitution and the amount of restitution, the court must consider the amount of loss sustained by the victim, the financial resources of the defendant and the financial needs and earning ability of the defendant and the defendant's dependents. These considerations are designed to ensure that restitution is ordered only where the court has determined that the defendant has the ability to pay and the amount he/she can pay.

The court may order the Probation Office to obtain the information it must consider in making an order of restitution. In addition to the financial resources of the defendant, the loss to the victim is also taken into consideration. The Victim-Witness Coordinator should work with the victim in the preparation of a victim impact statement. Such information will be included in the consideration of the restitution as well as in the presentence investigation report or in a separate report, as the court directs.

#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

##### **M. POST-SENTENCE NOTIFICATION**

The Bureau of Prisons (BOP) implemented the Victim-Witness Notification Program in May, 1984, establishing procedures to respond to requests from victims and witnesses who want to be notified about an inmate's release and release proceedings. Release activities include the following: parole hearings, furloughs, deaths, escapes, or transfers to community corrections centers or to another facility.

Victim-Witness Coordinators should ask the victim whether he/she would like to be notified in these events; requests to the Bureau of Prisons must come from the United States Attorney (i.e. the Victim-Witness Coordinator). These requests should be sent to the Bureau of Prisons after the correctional facility has been designated for the defendant. It is important that victims understand that they must keep BOP up-to-date with a current address and telephone number in order to be assured of proper notification.

The program is retroactive. Victims may request notification, even if the case was closed sometime in the past, as long as the inmate is currently in federal custody.

Coordinators should send written requests to:

Ms. Tonya Jackson  
Office of Victim Assistance  
Federal Bureau of Prisons - Room 531  
320 First Street, N.W.  
Washington, D.C. 20534

- (202) 307-0884

#### **IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM**

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##### **N. STUDENT INTERN PROGRAM**

In a time of limited funding, volunteer interns can provide additional staff resources to assist in program tasks while providing college level students with the opportunity to learn about and work with crime victims. Only students of the highest caliber should be selected to participate in the internship program. It can be assumed that the intern will have no prior knowledge or experience in this field, and the supervision, training, and evaluation will be the responsibility of the Victim-Witness Coordinator. The following criteria are offered as suggestions for establishing a program within your office.

##### **Eligibility for Internship:**

- Interns must be currently enrolled at a junior college, four year college, or university.
- Interns must be participating in an internship program through their school.
- Interns should be enrolled in an appropriate area of the Social or Behavioral Sciences, such as criminal justice, psychology, sociology, or social work.
- Interns should have some prior course work or experience in the criminal justice system, counseling, and/or social services.
- Interns must agree to maintain the rules of strictest confidentiality and abide by the guidelines of the intern program and the Department of Justice. Failure to do so will result in immediate dismissal from the program.
- Interns will receive no monetary compensation, but will earn college credit (3-6 hours) for their participation in the program.
- Interns will work 10 - 20 hours per week depending on the amount of college credit they want to earn.
- Interns must establish written goals and objectives to be accomplished through the course of their intern program.
- In addition, interns must be eligible to participate in this program, according to the standards set forth by the Department of Justice, which includes satisfactorily passing a background investigation conducted by the FBI, to be paid for by the district budget.

#### **IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM**

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##### **Student Intern Tasks:**

- Become familiar with the workings of the federal criminal justice system and investigative process.
- Become familiar with the district's social service agencies and the services that they offer and be able to utilize them.
- Review case files and provide written summaries of cases referred to the Victim-Witness program.
- Assist in the identification of victims and witnesses and where they can be located.
- Assist with the maintenance of victim files.
- Attend court hearings and trials to document outcomes and assist victims who might need emotional support.
- Attend meetings and training sessions provided by the Victim-Witness Coordinator.
- Continually update knowledge by reading current, relevant literature.
- Assist in filing crime compensation claims for victims.
- Assist in notifying victims of case status.

##### **Desirable Skills:**

- Ability to get along with people.
- Ability to be an advocate for victims of crime and/or misfortune.
- Demonstrated willingness to learn.
- Open, non-judgmental attitude toward victims, regardless of their circumstances.
- Ability to think well and respond quickly.

#### ***IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM***

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##### **Victim-Witness Coordinator Responsibilities:**

- Recruit, train, and supervise interns.
- Approve goals and objectives established by interns prior to commencing internship program.
- Document interns' weekly hours.
- Complete written evaluation of interns' work performance at the completion of the internship program.

**NOTE:** Recruitment/interviewing of potential intern volunteers must be planned well in advance due to the length of time necessary to process the Department's paperwork and background investigation. Recruitment should begin in October for the spring semester and April for the summer and fall semesters.



#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

##### **O. RESOURCES FROM OTHER AGENCIES**

- **The Office for Victims of Crime:** The Office for Victims of Crime (OVC) was established by the Victims of Crime Act of 1984 (VOCA) to serve as the Federal Government's chief advocate for America's crime victims. OVC administers many formula and discretionary grants for programs designed to benefit victims, provides training for diverse professionals who work with crime victims, and develops projects to enhance victims' rights and services. Its mission is to provide victims with justice and healing.

A major responsibility of OVC is to administer the Crime Victims Fund, which is derived not from tax dollars, but from fines and penalties paid by federal criminal defendants. Nearly 90 percent of the money collected each year --\$233 million in 1995-- is distributed to states for funding of victim assistance and compensation programs, the lifeline services that enable many victims to heal. Victim assistance funds support nearly 3,000 local victim service agencies, such as domestic violence shelters, child advocacy centers, and rape treatment programs. Compensation funds provide victims with out-of-pocket expenses resulting from crime, including medical costs, lost wages, and mental health counseling.

In addition, OVC sponsors training on a variety of victims' issues to many different professions, including victim service providers, law enforcement, prosecutors, the clergy, and medical and mental health professionals. Training is also provided for some 70 different Federal law enforcement agencies, such as the Department of Defense and the National Park Service.

Part of OVC's mission includes direct services to people victimized on tribal or Federal lands, such as military bases and national parks. OVC maintains an emergency fund to assist victims of federal crimes with needed services, including temporary shelter and travel expenses to court. Using Crime Victims Fund Dollars, OVC also sponsors programs in Indian Country to respond to the programs authorized in the Children's Justice and Assistance Act. These monies support the training of multi-disciplinary teams to handle child sexual abuse cases and comprehensive victim services.

Through discretionary grants, OVC has initiated many innovative projects that have had national impact. The OVC trainers Bureau brings top experts to local communities at no cost. The OVC Resource Center responds to thousands of callers via an 800 number and provides extensive information about a range of victims' issues. OVC also has funded important reports on civil legal remedies for victims, model anti-stalking laws, exemplary corrections programs that assist victims and train victims advocates, and protocols for handling offenses on tribal lands. In addition, OVC has helped

#### IV. IMPLEMENTING A VICTIM ASSISTANCE PROGRAM

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develop numerous training curricula addressing hate crimes, elder abuse, and the role of clergy in assisting victims. Other OVC funded projects include videotapes that educate children about testifying in court and a crisis response initiative that funded three teams to aid victims of the Murrah Federal Building bombing in Oklahoma City.

OVC staff, under the direction of Ms. Aileen Adams, can be consulted at (202) 307-5983.

- **National Victim Center**: Founded in 1985 in honor of Sunny von Bulow, the National Victim Center is a nonprofit victims' rights organization. The functions of the National Victims' Center are to promote the rights and needs of violent crime victims and to educate the public about the effects of crime. The National Victim Center's programs provide training and technical assistance to local victims groups; legal assistance and guidance in civil litigation; an extensive resource library on criminal justice and victimology; a speakers' bureau; and a legislative data base that tracks victims' rights legislation on the federal and state level. The National Victim Center is a major force in creating an awareness of the plight of victims through National Victims' Rights Week and other ongoing public awareness campaigns.

The Center is located in Arlington, Virginia, under the direction of Mr. David Beatty. For more information, please call (703) 276-2880.

- **National Organization for Victim Assistance**: The National Organization for Victim Assistance (NOVA), founded in 1975, is a nonprofit organization committed to the recognition and implementation of victim rights. NOVA's membership includes victims of crime, criminal justice officials, health and mental health professionals, victim advocates, and members of the general public. Operating through volunteer efforts and individual contributions, NOVA serves as a voice for victims in both state and federal legislative efforts; offers direct services for victims when local programs are unavailable; provides technical assistance and training to local victim assistance programs; and communicates with its membership to provide information on new ideas and programs. Since its inception, NOVA has been instrumental in the passage of all victim rights legislation.

The director of NOVA is Ms. Marlene Young. NOVA is headquartered in Washington, D.C., and can be reached at (202) 232-6682 for more information.



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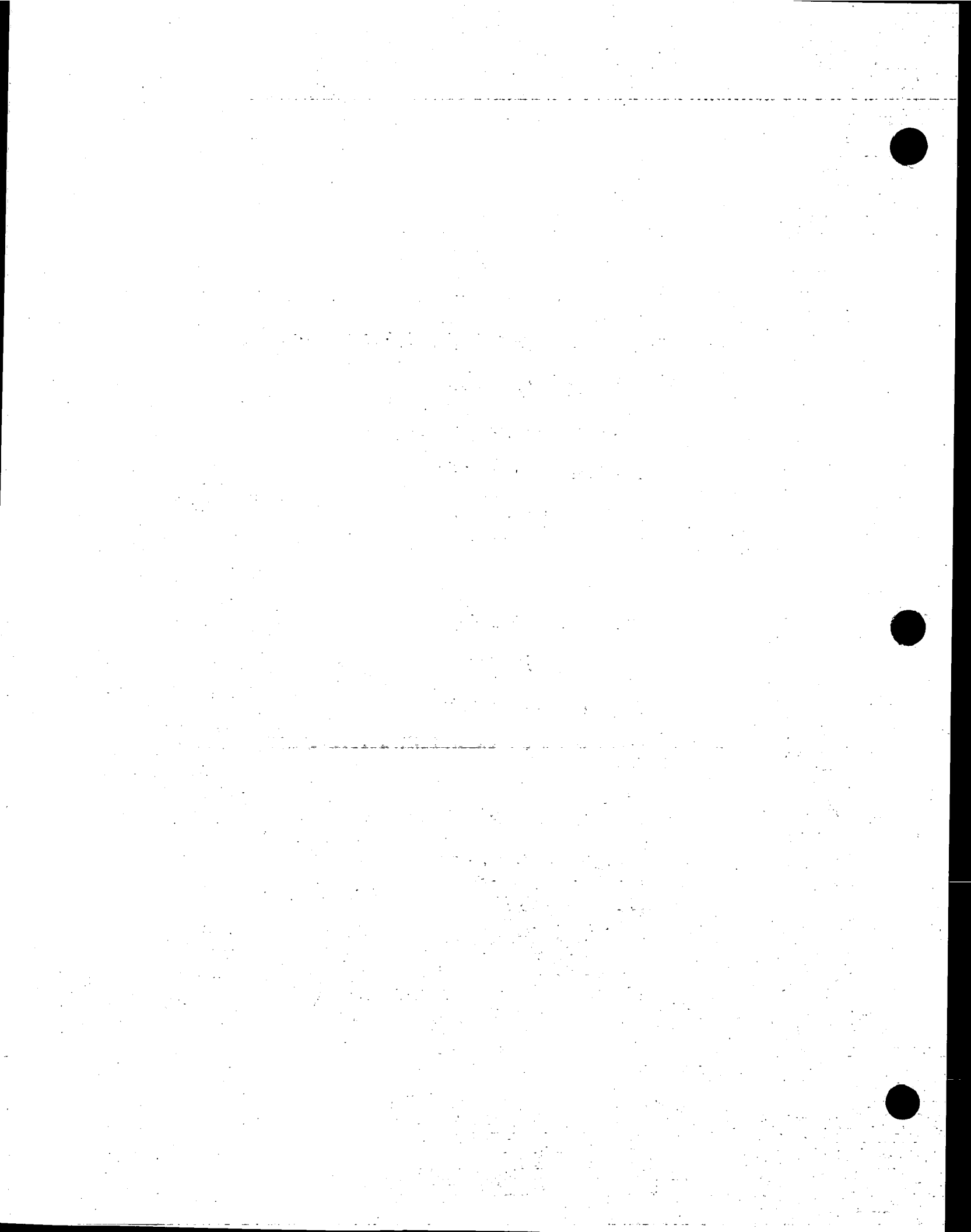
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<b>BIG SPRING</b> 151	SC	FCI - Big Spring 1900 Simler Avenue Big Spring, TX 79720-7799	(915) 263-8304 FAX: (915) 267-4010	Ed Johnson	(915) 263-8304 Extension 106
<b>BORON</b> 150	WE	FPC - Boron P.O. Box 500 Boron, CA 93596	(619) 762-5161 FAX: (619) 762-5719	Robert Prior	(619) 762-5161
<b>BROOKLYN</b> 429	NE	MDC - Brooklyn 100 29th Street Brooklyn, NY 11232	(718) 832-1039 FAX: (718) 832-4280	Susan Leibowitz	(718) 832-1039
<b>BRYAN</b> 235	SC	FPC - Bryan P.O. Drawer 2197 1100 Ursuline St. Bryan, TX 77803	(409) 823-1879 FAX: (409) 775-5681	Chuck Harris	(409) 823-1879 Extension 740
<b>BUTNER</b> 177	MA	FCI - Butner P.O. Box 1000, Old Hwy 75 Butner, NC 27509-1000	(919) 575-4541 FAX: (919) 575-6341	George Kearney	(919) 575-4541 Extension 375



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## BUREAU OF PRISONS (IFRP) DIRECTORY

Institution Name & Number	Region	Institution Address	Telephone & FAX Numbers	IFRP Coordinator	Telephone Number
BUTNER 446	MA	LSCI - Butner P.O. Box 99, Old Hwy 75 Butner, NC 27509-1000	(919) 575-5000 FAX: (919) 575-5040	Katherine M. Else	(919) 575-5000 Extension 1088
CARSWELL 443	SC	FMC - Carswell P.O. Box 27066 J Street, Bldg. 3000 Ft. Worth, TX 76127	(817) 782-4897 FAX: (817) 783-3030	Richard Ives	(817) 782-4897
CHICAGO 164	NC	MCC - Chicago 71 W. Van Buren Street Chicago, IL 60605	(312) 322-0567 FAX: (312) 322-0565	Loniel McDade	(312) 322-0567
COLEMAN (Med) 380	SE	PCC - Coleman (Medium) 811 N.E. 54th Terrace Coleman, FL 33521-8997	(352) 330-3200 FAX: (352) 330-0552	Linda Hawkins	(352) 330-3200
COLEMAN (Low) 381	SE	FCC - Coleman (Low) 868 N.E. 54th Terrace Coleman, FL 33521-8999	(352) 330-3100 FAX: (352) 330-0259	Terry R. Ennis	(352) 330-3100 Extension 4123
COLEMAN (Admin) 452	SE	FCC - Coleman (Administration) 846 N.E. 54th Terrace Coleman, FL 33521-1029	(352) 330-3000 FAX: (352) 330-0653		
CUMBERLAND 405	MA	FCI - Cumberland 14601 BurBridge Rd., SE Cumberland, MD 21502	(301) 784-1000 FAX: (301) 784-1037	Janet Herman	(301) 784-1000
DANBURY 145	NE	FCI - Danbury Route 37, Pembroke Station Danbury, CT 06811-3099	(203) 743-6471 FAX: (203) 312-5109	Edward A. Bouley	(203) 743-6471 Extension 405
DUBLIN 122	WE	FCI - Dublin 5701 8th Street Camp Parks Dublin, CA 94568	(510) 833-7547 FAX: (415) 833-7599	Randy Bacon	(510) 833-7547
DUBLIN	WE	FDC/FPC - Dublin 5675 8th Street - Camp Parks Dublin, CA 94568	(510) 833-7547 FAX: (415) 833-7599		
DULUTH 130	NC	FPC - Duluth P.O. Box 1400 Duluth, MN 55814	(218) 722-8634 FAX: (218) 722-8792	A.F. Pulford	(218) 722-8634
EGLIN 155	SE	FPC - Eglin P.O. Box 600 Eglin Air Force Base Eglin, FL 32542-7606	(904) 729-8208 FAX: (904) 729-8190	Mark Dubin	(904) 729-8208
EL PASO 242	SC	FPC - El Paso P.O. Box 16300 SSG Sim Road, Bldg. 11636 El Paso, TX 79906	(915) 566-1271 FAX: (915) 540-6165	Hilario Terrazas	(915) 556-1271
EL RENO 115	SC	PCI - El Reno Hwy 66 West El Reno, OK 73036-1000	(405) 262-4875 FAX: (405) 262-6266	Lloyd Wilson	(405) 262-4875 Extension 210

## BUREAU OF PRISONS (IFRP) DIRECTORY

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Institution Name & Number	Region	Institution Address	Telephone & FAX Numbers	IFRP Coordinator	Telephone Number
ENGLEWOOD 102	NC	FCI - Englewood 9595 West Quincy Avenue Lincolnton, CO 80123	(303) 985-1566 FAX: (303) 763-2545	Deanna K. Avila-Lewellyn	(303) 985-1566 Extension 1135
ESTILL 404	SE	FCI - Estill P.O. Box 699, 100 Prison Road Estill, SC 29918	(803) 625-4607 FAX: (803) 625-3139	Liz Carlson	(803) 625-4607 Extension 4013
FAIRTON 229	NE	FCI - Fairton Box 280, Hwy 698 Fairton, NJ 08320	(609) 453-1177 FAX: (609) 453-4015	Jean Wright	(609) 453-1177
FLORENCE 432	NC	USP - Admin Max 5880 State Highway 67 South P.O. Box 8500 Florence, CO 81226	(719) 784-6040 FAX: (719) 784-5295	Cliff Young	(719) 784-6040 Extension 6040
FLORENCE 430	NC	FCI - Florence 5880 State Highway 67 South P.O. Box 6500 Florence, CO 81226	(719) 784-9100 FAX: (719) 784-5013	M. Collins	(719) 784-9100 Extension 4806
FLORENCE 262	NC	USP - Florence 5880 State Highway 67 South P.O. Box 7500 Florence, CO 81226	(719) 784-9423 FAX: (719) 784-5130	Louis Eichenlaub	(719) 784-9423
FORT DIX	NE	FCI - Ft. Dix P.O. Box 38 Fort Dix, NJ 08640	(609) 723-1100 FAX: (609) 724-0779	E. L. Taam	(609) 723-1100
FORT WORTH 178	SC	FMC - Ft. Worth 3150 Horton Road Ft. Worth, TX 76119-5996	(817) 535-2111 FAX: (817) 531-2193	MaryLou Burns	(817) 535-2111 Extension 193
GREENVILLE 439	NC	FCI - Greenville 100 U.S. Route 40 P.O. BOX 4000 Greenville, IL 62246	(618) 664-6200 FAX: (618) 664-6398	David Porter	(816) 664-6200
GUAYNABO 403	SE	MDC - Guaynabo P.O. Box 2146 San Juan, PR 00922-2146	(809) 749-4480 FAX: (809) 749-4363	Shari Lenway	(809) 749-4480
JESUP 232	SE	FCI - Jesup 2600 Highway 301 S. Jesup, GA 31545	(912) 427-0870 FAX: (912) 427-1126	Judy Nichols	(912) 427-0870
LA TUNA 146	SC	FCI - La Tuna P.O. Box 1000, Texas Hwy 20 Anthony, NM/TX 88021	(915) 886-3422 FAX: (915) 886-4317	Eric Benn	(915) 886-3422
LEAVENWORTH 132	NC	USP - Leavenworth 1300 Metropolitan Avenue Leavenworth, KS 66048	(913) 682-8700 FAX: (913) 682-3617	C.A. Ashman	(913) 682-8700 Extension 186
LEWISBURG	NE	USP - Lewisburg R.D. #5, P.O. Box 1000 Lewisburg, PA 17837	(717) 523-1251 FAX: (717) 534-7012	Richard I. Wagner	(717) 523-1251 Extension 236

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## BUREAU OF PRISONS (IFRP) DIRECTORY

Institution Name & Number	Region	Institution Address	Telephone & FAX Numbers	IFRP Coordinator	Telephone Number
LEXINGTON 123	MA	FMC - Lexington 3301 Leesown Road Lexington, KY 40511-8799	(606) 255-6812 FAX: (606) 231-6531	Nicholas R. Buckley	(606) 255-6812
LOMPOC 163	WE	FCI - Lompoc 3600 Guard Road Lompoc, CA 93436	(805) 736-4154 FAX: (805) 735-4340	Lyndell Penny	(805) 736-4154
LOMPOC 116	WE	USP - Lompoc 3901 Klein Blvd. Lompoc, CA 93436	(805) 735-2771 FAX: (805) 737-0295		
LORETTO 114	NE	FCI - Loretto R.R. #276 P.O. Box 1000 Loretto, PA 15940	(814) 472-4140 FAX: (814) 472-5173	Mike Perehinec	(814) 472-4140
LOS ANGELES 224	WE	MDC - Los Angeles 535 N. Alameda St. Los Angeles, CA 90012-1500	(213) 485-0439 FAX: (213) 626-5801	Mike Langowski	(213) 485-0439
MANCHESTER 258	MA	FCI/FPC - Manchester PO BOX 3000 RT 8, Fox Hollow Road Manchester, KY 40962	(606) 598-1900 FAX: (606) 598-4020	Mark Johnson	(606) 598-1900
MARIANNA 223	SE	FCI - Marianna 3625 FCI Road Marianna, FL 32446	(904) 526-2313 FAX: (904) 526-2788	Stanley Davis	(904) 526-2313 Extension 236
MARION 135	NC	USP - Marion Route 5, P.O. Box 2000 Marion, IL 62959	(618) 964-1441 FAX: (618) 964-1695	Stan Ahlin	(618) 964-1441 Extension 332
MAXWELL 157	SE	FPC - Maxwell Maxwell Air Force Base Montgomery, AL 36112	(334) 293-2100 FAX: (334) 293-2274	Chalon Moore	(334) 293-2100
MCKEAN 231	NE	FCI - McKean P.O. Box 5000 Bradford, PA 16701	(814) 362-8900 FAX: (814) 362-3287	Deanna M. Tronemi	(814) 362-8900 Extension 413
MEMPHIS 128	MA	FCI - Memphis 1101 John A. Denie Road Memphis, TN 38134-7690	(901) 372-2269 FAX: (901) 228-8395	Valerie Jimmerson	(901) 372-2269 Extension 332
MIAMI 413	SE	FDC - Miami P.O. Box 019118 Miami, FL 33101-9118	(305) 982-1215 FAX: (305) 982-1257	Valerie Rappold	(305) 982-1215
MIAMI 125	SE	FCI - Miami 15801 SW 137th Ave. Miami, FL 33177	(305) 253-4400 FAX: (305) 235-9012	Beverly Hoskins	(305) 253-4400
MILAN 117	MA	FCI - Milan Arkona Road, P.O. Box 9999 Milan, MI 48160	(313) 439-1511 FAX: (313) 439-1944		

## BUREAU OF PRISONS (FRP) DIRECTORY

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Institution Name & Number	Region	Institution Address	Telephone & FAX Numbers	FRP Coordinator	Telephone Number
MILLINGTON 259	MA	FPC - Millington 6696 Navy Road Millington, TN 38053	(901) 872-2277 FAX: (901) 873-8208	Clark Welch	(901) 872-2277
MORGANTOWN 103	MA	FCI - Morgantown Greening Road, P.O. Box 1000 Morgantown, WV 26507-1000	(304) 296-4416 FAX: (304) 296-7549	Chris Police	(304) 296-4416 Extension 344
NELLIS 247	WE	FPC - Nellis C.S. 4500, Nellis Air Force Base N. Las Vegas, NV 89036-4500	(702) 644-5001 FAX: (702) 644-7483		
NEW YORK 158	NE	MCC - New York 150 Park Row New York, NY 10007-1779	(212) 791-9130 FAX: (212) 791-9073	Christine Dynan	(212) 791-9130 Extension 442
OAKDALE 108	SC	FCI - Oakdale P.O. Box 5050 Oakdale, LA 71463	(318) 335-4070 FAX: (318) 335-3936	Kevin Drayton	(318) 335-4070
OAKDALE 265	SC	FDC - Oakdale P.O. Box 5060 (Oakdale II) Oakdale, LA 71463-5060	(318) 335-4466 FAX: (318) 335-4476	Debbie Giles	(318) 335-4466
OKLAHOMA CITY 449	SC	FTC - Oklahoma City 7500 MacArthur Ave. Oklahoma City, OK 73189-8802	(405) 682-4075 FAX: (405) 680-4075	Joel Regnier	(405) 682-4075
OTISVILLE 144	NE	FCI - Otisville Two Mile Dr., P.O. Box 600 Otisville, NY 10963	(914) 386-5855 FAX: (914) 386-9455	Rick Klingman	(914) 386-5855
OXFORD 124	NC	FCI - Oxford P.O. Box 500 Oxford, WI 53952	(608) 584-5511 FAX: (608) 584-6371	P. Frederick	(608) 584-5511
PEKIN 407	NC	FCI - Pekin P.O. Box 7000 Pekin IL 61555-7000	(309) 346-8588 FAX: (309) 477-4688	Rick Beach	(309) 346-8588
PENSACOLA 234	SE	FPC - Pensacola 110 Raby Ave Pensacola, FL 32509-5127	(904) 458-7304 FAX: (904) 458-7295	David A. Fagan	(904) 458-7304
PETERSBURG 118	MA	FCI - Petersburg P.O. Box 1000, River Rd. Petersburg, VA 23804-1000	(804) 733-7881 FAX: (804) 733-3728	Michael Brodie	(804) 733-7881 Extension 362
PHOENIX 187	WE	FCI - Phoenix 37900 N. 45th Ave., Dept. 1680 Phoenix, AZ 85027-7003	(602) 465-9757 FAX: (602) 465-7362	Beth A. Mitchell	(602) 465-9757
RAY BROOK 143	NE	FCI - Ray Brook P.O. Box 300 Ray Brook, NY 12977-0300	(518) 891-5400 FAX: (518) 891-0011	Bill Dempsey	(518) 891-5400
ROCHESTER 127	NC	FMC - Rochester P.O. Box 4600 2110 East Center Street Rochester, MN 55903-4600	(507) 287-0674 FAX: (507) 282-3741	Fred D. Frey	(507) 287-0674

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## BUREAU OF PRISONS (IFRP) DIRECTORY

Institution Name & Number	Region	Institution Address	Telephone & FAX Numbers	IFRP Coordinator	Telephone Number
SAFFORD 159	WE	FCI - Safford Box 820 Safford, AZ 85546	(520) 428-6600 FAX: (602) 348-1331		
SAN DIEGO 168	WE	MCC - San Diego 808 Union Street San Diego, CA 92101-6078	(619) 232-4311 FAX: (619) 231-4913	Lois Lausch	(619) 232-4311 Extension 424
SANDSTONE 147	NC	FCI - Sandstone Kettle River Road Sandstone, MN 55072	(320) 245-2262 FAX: (320) 245-5178	Rebecca Gaede	(320) 245-2262 Extension 476
SCHUYLKILL 252	NE	FCI - Schuylkill P.O. Box 700 Minersville, PA 17954	(717) 544-7100 FAX: (717) 544-7225	Jeff Coughlin	(717) 544-7100 Extension 4260
SEAGOVILLE 119	SC	FCI - Seagoville 2113 N. Highway 175 Seagoville, TX 75159	(214) 287-2911 FAX: (214) 287-4827	David Berkebile	(214) 287-2911 Extension 430
SEYMOUR JOHNSON 243	MA	FPC - Seymour Johnson Caller Box 8004 Goldsboro, NC 27533-8004	(919) 735-9711 FAX: (919) 735-9892	Ernest Cave	(919) 735-9711
SHERIDAN 230	WE	FCI - Sheridan P.O.Box 8000, 27027 Ballston Rd. Sheridan, OR 97378	(503) 843-4442 FAX: (503) 843-3408	Tim Boldt	(503) 843-4442 Extension 513
SPRINGFIELD 175	NC	MCFP - Springfield 1900 W. Sunshine, P.O. Box 4000 Springfield, MO 65801-4000	(417) 862-7041 FAX: (417) 837-1751	Scott Klinzing	(417) 862-7041
TALLADEGA 129	SE	FCI - Talladega 565 E. Renfroe Rd. Talladega, AL 35160	(205) 315-4300 FAX: (205) 315-4486	Dan McMahan	(205) 315-4300
TALLAHASSEE 120	SE	FCI - Tallahassee 501 Capital Circle, N.E. Tallahassee, FL 32301-3572	(904) 878-2173 FAX: (904) 942-9666	Eddie Laracuente	(904) 878-2173
TALLAHASSEE	SE	FDC - Tallahassee 525 Capital Circle, N.E. Tallahassee, FL 32301	(904) 877-0930 FAX: (904) 878-4056		
TERMINAL ISLAND 148	WE	FCI - Terminal Island 1299 Seaside Avenue Terminal Island, CA 90731-0207	(310) 831-8961 FAX: (310) 732-5335	L.A. Mickelson	(310) 831-8961
TERRE HAUTE 138	MA	USP - Terre Haute 4200 Bureau Road North Terre Haute, IN 47808-0033	(812) 238-1531 FAX: (812) 234-1643	Gene Finley	(812) 238-1531
TEXARKANA 149	SC	FCI - Texarkana P.O. Box 9500 Texarkana, TX 75505	(903) 838-4587 FAX: (903) 838-4071	Todd Nelson	(903) 838-4587
TEXARKANA	SC	FPC - Texarkana P.O. Box 9300 Texarkana, TX 75505	(903) 838-4587 FAX: (903) 838-4071	Todd Nelson	(903) 838-4587

**BUREAU OF PRISONS (IFRP) DIRECTORY**

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Division Code & Number	Region	Institution Address	Telephone & FAX Numbers	IFRP Coordinator	Telephone Number
<b>THREE RIVERS</b> 249	SC	PCI - Three Rivers P.O. Box 4000 Three Rivers, TX 78071	(512) 786-3576 FAX: (512) 786-4909	Dennis Molina	(512) 786-3576
<b>TUCSON</b> 196	WE	PCI - Tucson 8901 S. Wilmot Road Tucson, AZ 85706	(520) 574-7100 FAX: (520) 670-5674	Anita Honcker	(520) 574-7100
<b>WASECA</b> 448	NC	PCI - Waseca University Drive S.W. P.O. Box 1731 Waseca, MN 56093	(507) 835-8972 FAX: (507) 839-3016	Matthew G. Tveit	(507) 835-8972 Extension 3016
<b>YANKTON</b> 237	NC	FPC - Yankton P.O. Box 680 Yankton, SD 57078	(605) 665-3262 FAX: (605) 668-1116	Frank Giganti	(605) 665-3262 Extension 1122

**COMMUNITY CORRECTIONS MANAGER (CCM)**

LOCATION	ADDRESS	TELEPHONE & FAX NUMBER
<b>CENTRAL OFFICE CCM</b>	U.S. Department of Justice, Federal Bureau of Prisons 320 First St., N.W., Room 520 Washington, DC 20534	(202) 307-3225 FAX: (202) 514-7940
<b>DENVER TRAINING CENTER</b>	791 Chambers Road, 5th Floor Aurora, CO 80011	(303) 340-7962 FAX: (303) 340-7940
<b>MID-ATLANTIC REGION CCM</b>	Junction Business Park 10010 Junction Drive, Suite 100-N Annapolis Junction, MD 20701	(301) 317-3134 FAX: (301) 317-3139
<b>NORTH CENTRAL CCM</b>	Tower II, 8th Floor 400 State Kansas City, KS 66101-2492	(913) 551-1139 FAX: (913) 551-1071
<b>NORTHEAST REGION CCM</b>	U.S. Customs House, Seventh Floor 2nd and Chestnut St. Philadelphia, PA 19106	(215) 597-6317 FAX: (215) 597-4512
<b>SOUTH CENTRAL CCM</b>	4211 Cedar Spring Rd., Suite 100 Dallas, TX 75219	(214) 767-9797 FAX: (214) 767-9778
<b>SOUTHEAST REGION CCM</b>	523 McDonough Blvd., S.E. Atlanta, GA 30315	(404) 624-8158 FAX: (404) 624-8194
<b>WESTERN REGION CCM</b>	7950 Dublin Blvd., 3rd Floor Dublin, CA 94568	(510) 803-4758 FAX: (510) 803-4844
<b>ATLANTA CCM</b>	505 McDonough Blvd., S.E. Atlanta, GA 30315	(404) 624-8141 FAX: (404) 624-8145
<b>BALTIMORE CCM</b>	10010 Junction Drive, Suite 101-N Annapolis Junction, MD 20701	(301) 317-3281 FAX: (301) 317-3138

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## BUREAU OF PRISONS (IFRP) DIRECTORY

LOCATION	ADDRESS	TELEPHONE & FAX NUMBER
BOSTON CCM	Federal Bureau of Prisons JFK Federal Building, Suite 2200 Boston, MA 02203	(617) 565-94293 FAX: (617) 565-4297
CHICAGO CCM	200 West Adams, Suite 2915 Chicago, IL 60606	(312) 886-2114 FAX: (312) 886-2118
CINCINNATI CCM	36 E. 7th St., Suite 2107-A Cincinnati, OH 45202	(513) 684-2603 FAX: (513) 684-2590
DALLAS CCM	4211 Cedar Springs Rd., Suite 100 Dallas, TX 75219	(214) 767-9999 FAX: (214) 767-9794
DENVER CCM	1961 Stout Street, Room 683 Denver, CO 80294	(303) 844-5176 FAX: (393) 844-6184
DETROIT CCM	1850 Fed. Bldg., 477 Michigan Ave. Detroit, MI 48226	(313) 226-6186 FAX: (313) 226-7327
EL PASO CCM	208 Messa One Bldg. 4849 North Mesa Street El Paso, TX 79912	(915) 534-6326 FAX: (915) 534-6432
HOUSTON CCM	515 Rusk, Rm. 12016 Houston, TX 77002	(713) 718-4781 FAX: (713) 718-4780
KANSAS CITY CCM	500 State Ave., RM M-02 Kansas City, MO 66101	(913) 551-5712 FAX: (913) 551-5898
LONG BEACH CCM	501 W. Ocean Blvd., Suite 3260 Long Beach, CA 90802-4221	(310) 980-3536 FAX: (310) 980-3543
MIAMI CCM	401 N. Miami Ave. Miami, FL 33128-1830	(305) 536-5710 FAX: (305) 536-6530
MONTGOMERY CCM	P.O. Box 171, 15 Lee St. U.S. Courthouse, Rm. B-18 Montgomery, AL 36101	(334) 223-7480 (334) 223-7012
NASHVILLE CCM	599 U.S. Courthouse Nashville, TN 37203	(615) 736-5148 FAX: (615) 736-5147
NEW ORLEANS CCM	701 Loyola, Room T3034 New Orleans, LA 70113	(504) 589-6646 FAX: (504) 589-2378
NEW YORK CITY CCM	Federal Bureau of Prisons 26 Federal Plaza Rm. 36-110 New York, NY 10278	(212) 264-9520 FAX: (212) 264-9516
ORLANDO CCM	135 W. Central Blvd., Suite 650 Orlando, FL 32801	(407) 648-6055 FAX: (407) 648-6058
PHILADELPHIA CCM	Federal Bureau of Prisons 1880 John F. Kennedy Blvd., Suite 502 Philadelphia, PA 19103	(215) 656-6903 FAX: (215) 656-6907
PHOENIX CCM	234 N. Central Avenue, Room 425 Phoenix, AZ 85004-2212	(602) 379-4947 FAX: (602) 379-4

**BUREAU OF PRISONS (BPP) DIRECTORY**

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LOCATION	ADDRESS	PHONE AND FAX NUMBERS
PITTSBURGH CCM	411 7th Avenue, Room 1204 Pittsburgh, PA 15219	(412) 644-6560 FAX: (412) 644-3408
RALEIGH CCM	310 New Bern Avenue, Room 303 Raleigh, NC 27611-7743	(919) 856-4548 FAX: (919) 856-4777
SACRAMENTO CCM	Federal Building 650 Capitol Mall, Room 3522 Sacramento, CA 95814	(916) 498-5718 FAX: (916) 498-5723
SALT LAKE CITY CCM	U.S. Courthouse 350 South Main St., Room 503 Salt Lake City, UT 84101	(801) 524-4212 FAX: (801) 524-3112
SAN ANTONIO CCM	727 East Durango, Room 506 San Antonio, TX 78206	(210) 472-6225 FAX: (210) 472-6328
SAN FRANCISCO CCM	450 Golden Gate Ave., Room 145458 P.O. Box 36137 San Francisco, CA 94102	(415) 436-7990 FAX: (415) 436-7995
SEATTLE CCM	3160 Jackson Federal Building 915 Second Avenue Seattle, WA 98174	(206) 220-6593 FAX: (206) 220-6591
ST. LOUIS CCM	U.S. federal Courthouse 1114 Market Street, Rm. 902 St. Louis, MO 63101	(314) 539-2376 FAX: (314) 539-2465
PAUL CCM	Federal Office Building 212 3rd Ave., SO, Room 135 Minneapolis, MN 55401	(612) 334-4073 FAX: (612) 334-4077







# Program Statement

OPI: CPD  
NUMBER: 5380.05  
DATE: December 22, 1995  
SUBJECT: Financial Responsibility  
Program, Inmate

EFFECTIVE DATE: January 3, 1996

1. **[PURPOSE AND SCOPE §545.10.** The Bureau of Prisons encourages each sentenced inmate to meet his or her legitimate financial obligations. As part of the initial classification process, staff will assist the inmate in developing a financial plan for meeting those obligations, and at subsequent program reviews, staff shall consider the inmate's efforts to fulfill those obligations as indicative of that individual's acceptance and demonstrated level of responsibility. The provisions of this rule apply to all inmates in federal facilities, except: study and observation cases, pretrial detainees, and inmates in holdover status pending designation.]

The Victim and Witness Protection Act of 1982, the Victims of Crime Act of 1984, the Comprehensive Crime Control Act of 1984, and the Federal Debt Collection Procedures Act of 1990 require a diligent effort on the part of all law enforcement agencies to collect court-ordered financial obligations. Many inmates have the resources to satisfy their obligations when they are committed. Subsequent to commitment, inmates have opportunities to earn compensation in UNICOR or other institution assignments.

2. **PROGRAM OBJECTIVES.** The expected results of this program are:

a. All sentenced inmates with financial obligations will develop, with the assistance of staff, a financial plan to meet those obligations.

b. Each financial plan will be effectively monitored to ensure satisfactory progress is being made.

c. Inmates who refuse to participate in the Inmate Financial Responsibility Program or fail to comply with provisions of their financial plan will incur appropriate consequences.

[Bracketed Bold - Rules]  
Regular Type - Implementing Information

3. DIRECTIVES AFFECTED

a. Directive Rescinded

P.S. 5380.04 Financial Responsibility Program, Inmate  
(07/26/95)

b. Directives Referenced

P.S. 2000.02 Accounting Management Manual (10/15/86)  
P.S. 4500.04 Trust Fund Management (12/15/95)  
P.S. 5180.03 Central Inmate Monitoring System (09/14/90)  
P.S. 5251.03 Work and Performance Pay Program, Inmate  
(05/15/91)  
P.S. 5264.06 Telephone Regulations for Inmates (12/22/95)  
P.S. 5280.06 Furloughs (11/01/94)  
P.S. 5290.08 Admission and Orientation Program (04/20/93)  
P.S. 5321.05 Unit Management Manual (10/19/93)  
P.S. 5322.09 Classification and Program Review of Inmates  
(03/10/94)  
P.S. 5330.10 Drug Abuse Programs Manual, Inmate (05/25/95)  
P.S. 5380.03 Cost of Incarceration Fee (06/02/95)  
P.S. 5800.09 Central File, Privacy Folder and Parole Mini-  
Files (07/21/93)  
P.S. 5803.05 Progress Reports (02/11/94)  
P.S. 5873.04 Release Gratuities, Transportation, and  
Clothing (05/15/91)  
P.S. 5882.02 Fines and Costs (10/20/83)  
P.S. 7310.02 Community Corrections Center (CCC)  
Utilization and Transfer Procedure (10/19/93)  
P.S. 8120.01 FPI Work Programs for Inmates (03/27/95)

c. Rules cited in this Program Statement are contained in 28  
CFR 545.10-11.

4. INMATE FINANCIAL RESPONSIBILITY PROGRAM (IFRP) COORDINATORS.  
The Administrator, Correctional Programs Branch, Central Office,  
shall appoint a National IFRP Coordinator to act as a resource  
person for Bureau staff, other components of the Department of  
Justice, other law enforcement agencies, and the public.

Each Regional Correctional Programs Administrator shall appoint a  
Regional IFRP Coordinator to act as a resource person, monitor  
institution programs, and provide quality control within that  
region.

Each Warden shall appoint an institution IFRP Coordinator to  
monitor all applicable IFRP assignments for inmates in the  
institution and ensure that IFRP information is provided to  
inmates during the Admission and Orientation Program. The Inmate  
Financial Responsibility Program Overview (Attachment A) may be  
used to provide that information.

5. [PROCEDURES §545.11. When an inmate has a financial obligation, unit staff shall help that inmate develop a financial plan and shall monitor the inmate's progress in meeting that obligation.]

Unit staff are responsible for entering data into the Inmate Financial Responsibility SENTRY module accurately. After an inmate signs a contract agreement, Unit Staff shall forward the original signed copy to the institution OFM.

[a. Developing a Financial Plan. At initial classification, the unit team shall review an inmate's financial obligations, using all available documentation, including, but not limited to, the Presentence Investigation and the Judgment and Commitment Order(s). The financial plan developed shall be documented and will include the following obligations, ordinarily to be paid in the priority order as listed:

(1) Special Assessments imposed under 18 U.S.C. 3013;]

A defendant's obligation to pay a special assessment ceases five years after the date judgment was imposed. Inmates who fail to pay their assessments during the five-year period become absolved of this responsibility.

[(2) Court-ordered restitution;]

When the court imposes restitution in conjunction with a special assessment, the inmate and unit team may develop a financial plan for satisfying the restitution prior to the special assessment, provided:

(a) Significant bodily injury to a victim occurred as a result of the offense; and/or

(b) Significant loss or destruction of property to a victim occurred as a result of the offense; and/or,

(c) The court, U.S. Attorney's Office, or other law enforcement agency in the jurisdiction where the offense occurred has requested it.

[(3) Fines and court costs;]

The court may establish a payment schedule or a deferred payment date to satisfy an order of restitution or a fine. When the dates of the court-ordered payment schedule follow the period of incarceration, the financial plan should address any other financial obligations, while encouraging a savings plan to help meet future obligations.

[(4) State or local court obligations; and]

These may include child support, alimony, etc.

[(5) Other federal government obligations.]

Fees imposed under the provisions of Public Law 102-395, Cost of Incarceration, shall be paid before other financial obligations included in this category. Other obligations included in this category are judgments in favor of the United States, as well as such obligations as student loans, Veterans Administration claims, tax liabilities, Freedom of Information/Privacy Act fees, etc.

In accord with 18 U.S.C. Section 3624(e), any inmate who has a term of supervised release and a fine relative to the offense under which he or she was committed, must agree to adhere to an installment schedule to pay any remaining balance on this fine while under release supervision. Any inmate who refuses to comply with Section 3624(e) must remain in the custody of the Bureau of Prisons. The inmate shall sign and unit staff shall witness the "Installment Schedule Agreement for Unpaid Fines" (Attachment B) no later than 60 days prior to the inmate's release from custody. The signed agreement is to be placed in the inmate central file (Section 1) and copies forwarded to the Inmate Systems Manager and the Supervising U.S. Probation Officer.

[b. Payment. The inmate is responsible for making satisfactory progress in meeting his/her financial responsibility plan and for providing documentation of these payments to unit staff. Payments may be made from institution resources or non-institution (community) resources. In developing an inmate's financial plan, the unit team shall exclude from its assessment \$75 a month deposited into the inmate's trust fund account after subtracting from the trust fund account the inmate's IFRP minimum payment schedule for UNICOR or non-UNICOR work assignments, set forth below in paragraph (b)(1) and (b)(2) of this section. This \$75.00 is excluded to allow the inmate the opportunity to better maintain telephone communication under the Inmate Telephone System (ITS).]

At each review of an inmate's financial plan, the unit team is to:

- determine the total funds deposited into the inmate's trust fund account for the previous six months;
- subtract the IFRP payments made by the inmate during the six months; and
- subtract \$450 (the six month exclusion).

Any remaining amount may be used to consider adjusting the inmate's IFRP payment plan.

[(1) Ordinarily, the minimum payment for non-UNICOR and UNICOR grade 5 inmates will be \$25.00 per quarter. This minimum

payment may exceed \$25.00, taking into consideration the inmate's specific obligations, institution resources, and community resources.

(2) Inmates assigned grades 1 through 4 in UNICOR ordinarily will be expected to allot not less than 50% of their monthly pay to the payment process. Any allotment which is less than the 50% minimum must be approved by the Warden of the facility. Allotments may also exceed the 50% minimum after considering the individual's specific obligations and resources.]

(3) Payments may be made in the following manner:

(a) Non-Institutional Payments. An inmate may use non-institutional (community) resources to satisfy a financial obligation. Ordinarily, these are "one-time" payments directly to the parties to whom the obligations are owed and are intended to satisfy obligations of significant amounts. It is the inmate's responsibility to ensure staff are provided with a receipt to confirm a payment from a community resource. Canceled checks are not sufficient.

Furthermore, unless exceptional circumstances warrant otherwise, the receipt for payment must be confirmed by a community law enforcement agency (U.S. Attorney's Office, U.S. Probation Office, Clerk of Court, etc).

(b) Single Payment. When an inmate's total financial obligation is \$100 or less (for example, a Special Assessment) a single payment is preferred.

(c) Monthly/Quarterly Repetitive Withdrawals. Repetitive withdrawals from the inmate's Trust Fund Account shall be used for all inmates who elect to make financial payments from institution earnings. By utilizing the SENTRY program, unit staff must indicate if the repetitive payment is to be made monthly or quarterly. Quarterly repetitive payments should be requested only from non-UNICOR and UNICOR Grade 5 inmates. Repetitive withdrawals for UNICOR inmates Grades 1-4 are discussed below.

The OFM shall process quarterly repetitive payments once each quarter during the last month of each quarter (December, March, June and September). Any contract indicating quarterly repetitive payments received by the OFM during the first or second month of the quarter shall be held and processed during the last month of the quarter.

[c. Monitoring. Participation and/or progress in the Inmate Financial Responsibility Program will be reviewed each time staff assess an inmate's demonstrated level of responsible behavior.]

At these reviews, the status of the payment plan and the inmate's degree of participation is to be reflected on the

Program Review Report (BPS-191). Reports on the status of the inmate's participation are also to be reflected on his/her progress report. When a progress report is prepared for release purposes, a statement as to how the inmate will continue the financial plan, if applicable, after release from custody is to be included.

[d. Effects of non-participation. Refusal by an inmate to participate in the financial responsibility program or to comply with the provisions of his financial plan ordinarily shall result in the following:

- (1) Where applicable, the Parole Commission will be notified of the inmate's failure to participate;
- (2) The inmate will not receive any furlough (other than possibly an emergency furlough);
- (3) The inmate will not receive performance pay above the maintenance pay level, or bonus pay, or vacation pay;]

The unit team shall consider institution needs, particularly for skilled workers. Such needs may require that an inmate with a financial obligation be assigned to a lower paying, non-UNICOR work assignment. The unit team shall consider this when developing the inmate's financial plan. An inmate working above the maintenance pay level who fails to make satisfactory progress on his/her payment plan shall be reduced to maintenance pay.

[(4) The inmate will not be assigned to any work detail outside the secure perimeter of the facility;

(5) The inmate will not be placed in UNICOR. Any inmate assigned to UNICOR who fails to make adequate progress on his/her financial plan will be removed from UNICOR, and once removed, may not be placed on a UNICOR waiting list for six months. Any exceptions to this require approval of the Warden;]

The unit team may recommend an inmate for priority placement in UNICOR to assist in paying a significant financial obligation. Ordinarily, an inmate will not be recommended for priority placement unless he/she has obligations totaling at least \$1,000 and limited outside resources.

[(6) The inmate will not be permitted to purchase any items in excess of the monthly spending limitation, including special purchase items like sports equipment, hobby crafts, etc.]

Staff shall not approve any special purchase item request(s) for inmates in IFRP "REFUSE" status.

An inmate's IFRP status does not affect the inmate's opportunity to purchase Kosher and Halal shelf-stable entrees.

[(7) The inmate will be quartered in the lowest housing status (dormitory, double bunking, etc.);

(8) The inmate will not be placed in a community-based program;]

The unit team shall consider the inmate's participation in the Inmate Financial Responsibility Program as an important factor when determining Community Corrections Center (CCC) placement.

[(9) The inmate will not receive a release gratuity unless approved by the Warden.]

When a non-participating inmate's need for funds is exceptionally great, the unit team may recommend to the Warden that a gratuity be given.

[(10) Reserved] (This section is reserved for future rule changes.)

~~[(11) The inmate will not receive an incentive for participation in residential drug treatment programs.]~~

Incentives are defined as financial awards, maximum Community Corrections Center placement consideration, and local institution incentives. Staff are referred to the Drug Abuse Programs Manual, for limitations, guidelines, and eligibility criteria.

(12) The inmate's score on "Responsibility" on the BP-338, Custody Classification form, shall be zero.

6. SENTRY REQUIREMENTS. The unit team shall enter an appropriate IFRP assignment into SENTRY no later than initial classification, update that assignment when the inmate's FRP status changes, and review that assignment at least once every six months, particularly at the inmate's program reviews. The IFRP assignments are:

a. "UNASSG". "Unassigned" is automatically entered in SENTRY when an inmate is committed to federal custody. At initial classification, this assignment must be converted to another assignment, based on the payment plan developed by the unit team and the inmate's willingness to participate.

b. "NO OBLG". "No Obligation" is entered for an inmate when there is no documented financial obligation. This category is also used for an inmate who has no financial obligation payable while in Bureau custody. Unit staff shall contact the U.S. Probation Office for clarification when it is unclear if the court-ordered obligation is to be paid while the inmate is in Bureau custody or as a condition of supervision.



c. "PART". "Participates in Program" is entered for an inmate who agrees to pay, signs an agreement, and is making payments towards his/her financial obligation(s). In the case of initial commitment only, "PART" may be assigned to an inmate pending receipt of the first scheduled payment; however, that payment must be made and confirmed by staff within three months. For all other inmates, the status of "PART" is to be reviewed in accordance with the payment plan or, at a minimum, every six months.

d. "REFUSE". "Refuses to Participate in Program" is entered immediately when an inmate verbally refuses to participate in the program at initial classification, or at a subsequent program review is discovered to be making no real effort to make payments as agreed. The "REFUSE" status, and consequences of the status, are to be discussed with the inmate at the unit team meeting.

Each month, no later than five working days prior to payroll submission, the Institution IFRP Coordinator shall produce a roster of inmates in "REFUSE" status and distribute it to all Department Heads, the Associate Warden of Programs, and the Performance Pay Coordinator. It is the Performance Pay Coordinator's responsibility to ensure these inmates do not earn above maintenance pay or earn bonus pay or vacation pay.

Once an inmate has been placed in "REFUSE" status twice, the inmate must produce receipts of outside payments to demonstrate willingness to pay and participate in the program. The status may not be changed to "participate" until the receipts are produced at a unit team meeting.

e. "EXEMPT TMP". "Temporarily Exempt from Participation" shall be entered for an inmate who is unable to adequately participate toward satisfaction of the obligation, ordinarily because of medical or psychological restrictions which prevent the inmate from working. This assignment may also be used for an inmate who is unable to secure employment in UNICOR or advance beyond maintenance pay due to conditions beyond the inmate's control (overcrowding, institution need, etc.); however, in all cases, staff must also consider the inmate's ability to participate by utilizing non-institutional (community) resources prior to placing the inmate in "EXEMPT TMP" status.

The unit team must review each inmate's "EXEMPT TMP" status at least every six months when the basis is medical or psychological or every three months when the status is granted for other reasons. The Unit Manager shall document the review on the program review form.

Each month, the Institution IFRP Coordinator shall run a roster of all inmates in "EXEMPT TMP" status and forward it to all Unit Managers.

f. "COMPLT". "Completed the Program" shall be entered on an inmate who has totally satisfied ALL financial obligations payable during incarceration.

7. MONITORING AND TRACKING REQUIREMENTS. Unit staff are responsible for entering SENTRY data through the IFRP module and ensuring that an active contract exists for all inmates in "PART" status. Further instructions in data entry are available in the SENTRY Inmate Financial Responsibility Technical Reference Manual in the "BOPDOCS" system.

8. APPEALS. When an inmate's sentence of imprisonment is modified or corrected, absent any statement to the contrary in the new sentencing order, any existing court-ordered financial obligations remain in effect and should be collected pursuant to the provisions of this Program Statement. The provisions of this Program Statement also apply if an inmate is appealing his or her sentence, unless the court orders a "stay of collection" pending the appeal.

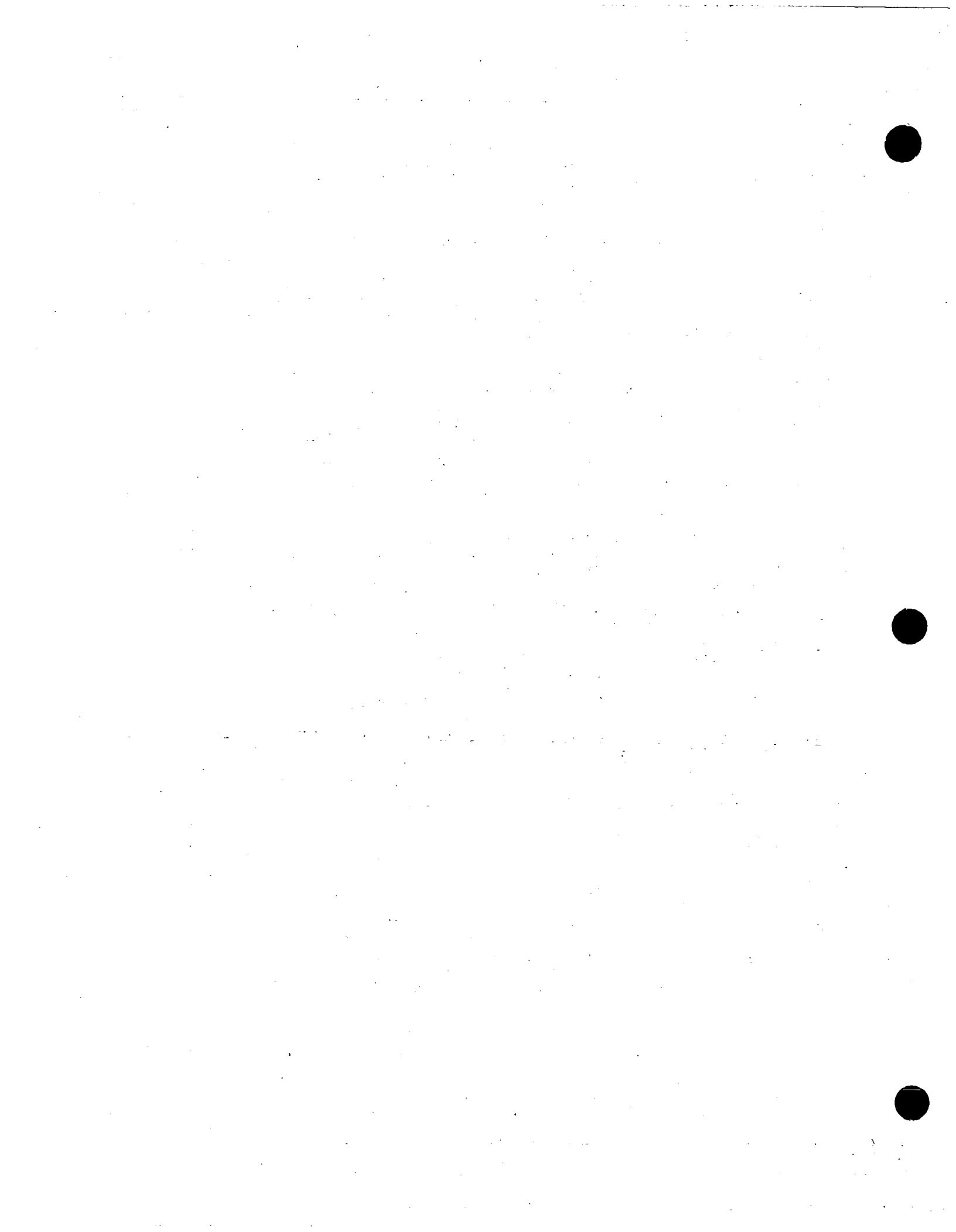
9. WITNESS SECURITY CASES. IFRP payments by Witness Security Cases shall be processed in accordance with the Central Inmate Monitoring Operations Manual.

10. INSTITUTION SUPPLEMENT. Each institution shall develop an Institution Supplement to:

- a. designate an institution IFRP Coordinator,
- b. outline UNICOR priority placement, and
- c. explain any procedures necessary to develop or monitor the institution IFRP program.

A copy of the Institution Supplement is to be forwarded to the respective Regional Correctional Programs Administrator.

Kathleen M. Hawk  
Director



INMATE FINANCIAL RESPONSIBILITY PROGRAM

OVERVIEW

The Inmate Financial Responsibility Program was implemented to encourage sentenced inmates to meet their legitimate financial obligations.

Each inmate with a financial obligation, regardless of the extent of resources, should develop a financial plan with members of the unit classification team. Ordinarily, failure to satisfy the obligation in accordance with the payment plan will effect future consideration for parole, room/housing assignments, institution work assignments, performance pay, commissary privileges, release gratuities, and community programs, including furloughs and CCC placement.

Interest and penalties are associated with unpaid restitution and fines. Payment plans will be discussed at your team meetings and possibly at your scheduled parole hearing(s). The United States Parole Commission is authorized to deny parole if an inmate refuses to pay a fine or restitution. When an inmate refuses to pay, revocation of supervision may result if payment of the obligation is a court-ordered condition of parole or supervised release.

When an inmate has the resources to do so, it is intended that full payment will be made as expeditiously as possible. Inmates with sizable obligations and considerable community resources are ordinarily not to be considered as exercising adequate responsibility by making minimum payments from institution earnings. The imposition of larger financial obligations by the court, like the imposition of longer sentences, reflects concern with the relative seriousness of the offense. In such cases, it ordinarily can be assumed the court has taken into consideration the inmate's ability to pay.

Questions regarding the Inmate Financial Responsibility Program or your program plan can be discussed with members of your unit team during your team meeting. The program statement is also available for review in the inmate law library.

P.S. 5380.05  
December 22, 1995  
Attachment B, Page 1

INSTALLMENT SCHEDULE AGREEMENT FOR UNPAID FINES

In accordance with 18 U.S.C., Section 3624(e), I agree to pay, while under supervised release, the remaining balance on any fine relative to the offense under which I am committed. I understand the installment schedule for the payment of this fine will be established by the United States Probation Office responsible for my supervision subsequent to my release from incarceration. I also understand that failure to agree to adhere to this installment schedule may delay or prevent my release from incarceration.

\_\_\_\_\_  
NAME & REGISTER NUMBER (PRINT)

\_\_\_\_\_  
STAFF WITNESS (PRINT)

\_\_\_\_\_  
NAME & REGISTER NUMBER (SIGNED)

\_\_\_\_\_  
STAFF WITNESS (SIGNED)

\_\_\_\_\_  
DATE

\_\_\_\_\_  
DATE

CC: Central File (Section I)  
Inmate Systems Manager (J&C File)  
Supervising USPO



# Change Notice

DIRECTIVE BEING CHANGED: 1490.03  
CHANGE NOTICE NUMBER: CN-01  
DATE: June 19, 1995

1. PURPOSE AND SCOPE. To revise notification procedures for institution transfers.

2. SUMMARY OF CHANGES. The requirement for the receiving Warden (or CCM for a VWP inmate housed in a state facility), to notify the victim/witness of an inmate's transfer to another institution has been eliminated. This Change Notice also includes United States Military inmates in the Victim and Witness Notification Program.

3. TABLE OF CHANGES

Remove

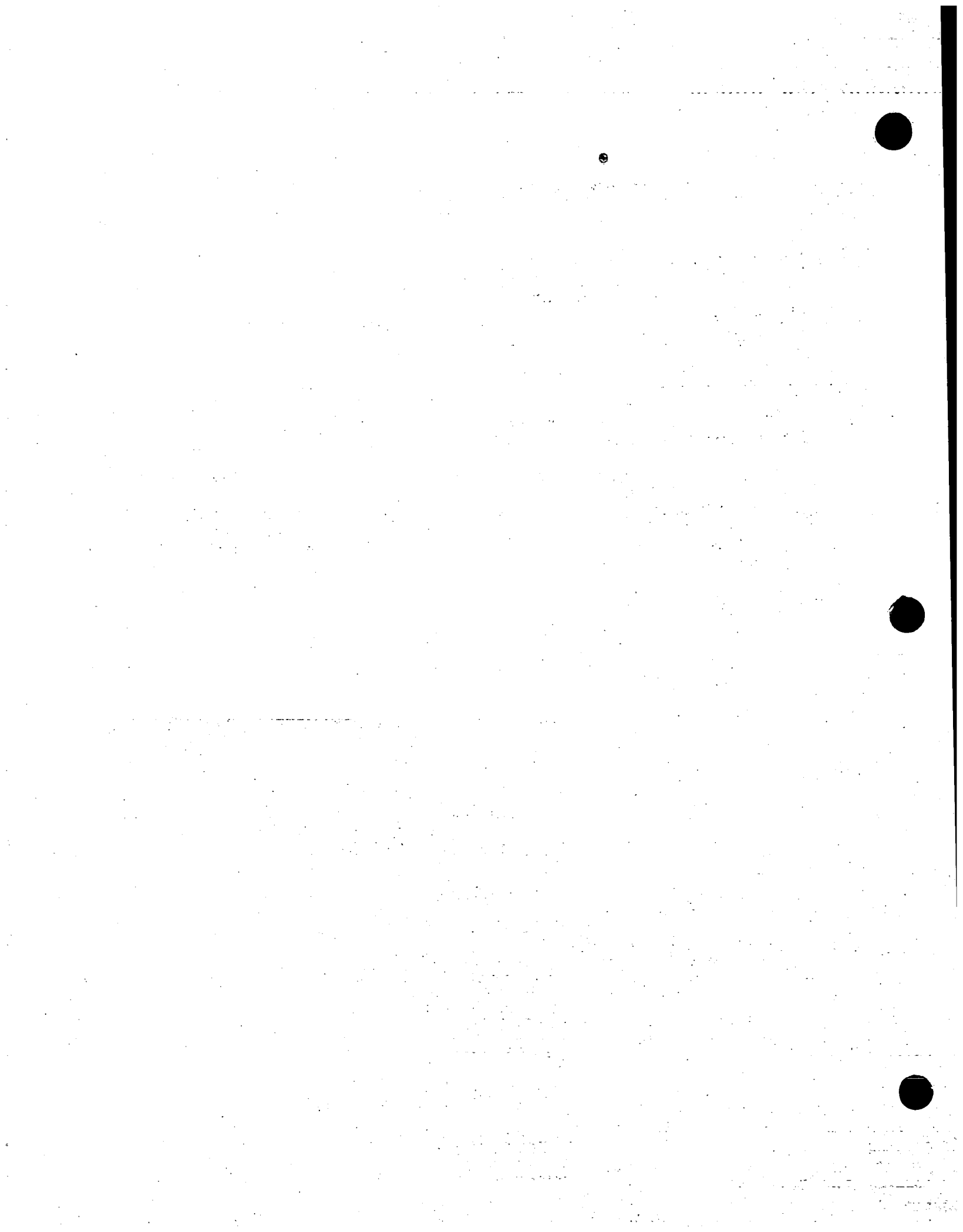
Pages 3 - 6  
Attachment C

Insert

Pages 3 - 6 (CN-01)

4. ACTION. File this Change Notice in front of P.S. 1490.03.

/s/  
Kathleen M. Hawk  
Director





# Program Statement

OPI: CPD  
NUMBER: 1490.03  
DATE: December 14, 1994  
SUBJECT: Victim and Witness Notification

1. **[PURPOSE AND SCOPE §551.150.** The Bureau of Prisons provides a requesting victim and/or witness of a serious crime with information on the release from prison of the inmate convicted of that serious crime.]

The Victim and Witness Protection Act of 1982 was enacted "to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process." This Program Statement establishes procedures for the Bureau to fulfill its role in implementing that Act.

2. **PROGRAM OBJECTIVES.** The expected results of this program are:

a. Victims and witnesses who are on record to receive notifications will be notified, within established time frames, of an inmate's admission or release from an institution or contract facility.

b. Victims and witnesses who are on record to receive notifications will be notified, within established time frames, of opportunities to appear in person at an inmate's parole hearing or submit written comments for consideration.

3. **DIRECTIVES AFFECTED**

- a. **Directives Rescinded**

P.S. 1490.02 Victim and Witness Notification (11/07/89)

- b. **Directives Referenced**

P.S. 3906.12 Employee Development Manual (08/14/92)  
P.S. 5180.03 Central Inmate Monitoring System (09/14/90)  
P.S. 5280.06 Furloughs (11/01/94)  
P.S. 5321.05 Unit Management Manual (10/19/93)  
P.S. 5553.04 Escapes/Deaths Notification (09/10/91)

[Bracketed Bold - Rules]  
Regular Type- Implementing Information



P.S. 7310.02 CCC Utilization and Transfer Procedures  
(10/19/93)

Attorney General Guidelines for Victim and Witness  
Assistance, August 6, 1991.  
Victim and Witness Protection Act of 1982, Public Law  
97-291.

c. Rules cited in this Program Statement are contained in 28  
CFR 551.150-153..

4. STANDARDS REFERENCED. None.

5. DEFINITIONS \$551.151

a. For purpose of this rule, "victim" is generally defined as someone who suffers direct or threatened physical, emotional, or financial harm as the result of the commission of a crime. The term "victim" also includes the immediate family of a minor or homicide victim.

b. For purpose of this rule, "witness" is defined as someone who has information or evidence concerning a crime, and provides information regarding this knowledge to a law enforcement agency. Where the witness is a minor, the term "witness" includes an appropriate family member. The term "witness" does not include defense witnesses or those individuals involved in the crime as a perpetrator or accomplice.

c. For purpose of this rule, "serious crime" is defined as a criminal offense that involves personal violence, attempted or threatened personal violence or significant property loss.

d. For purpose of this rule, the term "release" refers to an inmate's furlough, parole (including appearance before the Parole Commission), transfer to a community corrections center, mandatory release, expiration of sentence, escape (including apprehension), death, and other such release-related information.]

e. In regard to federal inmates housed in state facilities or Community Corrections Centers (CCCs), the terms "Warden" and "Unit Manager" refer to the appropriate Community Corrections Manager (CCM).

f. "VWP inmate" refers to an inmate with a "VWP" assignment in SENTRY. (See Section 9.a.)

6. BUREAU VICTIM/WITNESS COORDINATOR, CENTRAL OFFICE. The Bureau Victim/Witness Coordinator (VWC), located in the Correctional Programs Branch, Central Office, is the Bureau's specialist and resource person on victim/witness issues and procedures, and is the primary liaison to Department of Justice staff, other law enforcement agencies, and the public.

7. INSTITUTION VICTIM/WITNESS COORDINATOR. The Warden of each institution shall designate a Victim/Witness Coordinator, at the department head level or above, to provide technical expertise and train staff. The institution VWC is also responsible for implementing procedures to identify and notify unit staff of any new VWP inmates at his/her institution.

\* 8. INMATE APPLICABILITY

a. Witness Security Inmates. All notification procedures for Witness Security inmates with a "VWP" assignment are coordinated by the Victim/Witness Coordinator and the Inmate Monitoring Section, Central Office, Washington D.C.

b. United States Military Inmates. If applicable, U.S. Military inmates shall be included in the Victim and Witness Notification program. \*

9. [PROCEDURES §551.152

a. A victim and/or witness of a serious crime who wants to be notified of a specific inmate's release must make this request to the United States Attorney in the district where the prosecution occurred. Requests for notification received by the Bureau of Prisons directly from a victim and/or witness will be referred to the U.S. Attorney in the district of prosecution for approval.]

The U.S. Attorney's Office forwards all victim/witness notification requests to the Bureau VWC. Once the inmate is sentenced and an institution has been designated for the inmate, the Bureau VWC shall enter the Case Management Activity assignment "VWP" in SENTRY.

Only the Bureau VWC is authorized to enter or delete a "VWP" assignment in SENTRY. Other staff are not authorized to enter or delete this assignment.

The Bureau VWC shall then seek approval of the Assistant Director, Correctional Programs, of the U.S. Attorney's request. If approved, the Bureau VWC shall forward the approval letter via SENTRY to the Warden of the designated facility.

If a U.S. Attorney's Office sends a notification request directly to an institution, staff shall immediately forward a copy to the Bureau VWC via facsimile. Only when the institution receives written approval from the Assistant Director, Correctional Programs, may staff continue processing the request.

[b. Institution staff shall promptly notify the victim and/or witness when his or her request for notification has been received. Staff shall advise each approved victim and/or witness of that person's responsibility for notifying the Bureau of Prisons of any address and/or telephone number changes.]

c. Notification and Timeframes. Victim/witness notification is ordinarily accomplished through the BP-S323 (Attachment B). When a victim/witness notification is made through Form BP-S323, a copy shall be sent via regular mail to the U.S. Attorney's Office Victim/Witness Coordinator in the district where the inmate was sentenced.

The Unit Manager is responsible for ensuring that notifications are timely and accurate in the following circumstances:

(1) Initial Designation. The Warden shall send a letter (Attachment A) to the victim/witness within 30 days of receipt of the Assistant Director's approval letter. The toll-free number included on this letter may not be disclosed to any inmate or unauthorized third party.

(2) Parole Hearings. When a VWP inmate is scheduled for any parole hearing, the victim/witness shall be notified of the hearing as soon as the inmate is included on the tentative parole docket, generally 60 days prior to the hearing (Attachment D). When a victim/witness advises staff of plans to attend the inmate's parole hearing, separate waiting and parole-hearing facilities shall be made available for the victim/witness.

Additionally, unit staff shall prepare a memorandum to the U.S. Parole Commission (Attachment E) indicating a victim/witness (not to be specifically identified) may wish to submit written comments or attend the hearing. For initial hearings, this memorandum shall be placed on top of Section I of the mini-file. For other parole hearings, this memorandum shall be included in the review material provided to the Parole Examiners before the hearing.

(3) Escapes. Staff shall notify a victim/witness by telephone of the date and time of a VWP inmate's escape as soon as possible after the escape is discovered. If telephone contact cannot be accomplished, the Unit Manager shall telephone the Bureau VWC for further instructions and assistance.

If an escape occurs during an unescorted transfer, the sending institution is responsible for notification. If an escape occurs while a VWP inmate is housed in a Community Corrections Center or a state facility, the CCM is responsible for notification.

Institution staff shall also notify the Bureau VWC as soon as possible following an escape or apprehension to ensure the inmate's VWP file contains current information.

(4) Furloughs. Staff shall notify a victim/witness via form BP-S323 when a VWP inmate is being considered for a furlough. If circumstances do not permit advance written

notification, staff shall furnish the information on the BP-S323 to the victim/witness by telephone. If telephone notification is not possible, staff shall contact the Bureau VWC for further instructions before releasing the inmate on furlough.

For selected independent camps, staff are not required to make VWP notifications for local medical furlough cases.

(5) Deaths. Staff shall notify a victim/witness via the BP-S323 within 30 days.

(6) Transfers to a Community Corrections Center (CCC). Institution staff shall notify a victim/witness after a VWP inmate has an approved CCC acceptance date, using form BP-S323. When written notification will likely not arrive in advance of the CCC transfer, telephone contact shall be made. Ordinarily, this BP-S323 is the final notification to the victim/witness, unless an event (escape/death) in the CCC requires the CCM to send an additional notification. The CCM may NOT forward victim information to CCC staff.

(7) Releases to the Community. Ordinarily the BP-S323 is forwarded to the victim/witness 60 days prior to a VWP inmate's direct release from an institution, unless unusual circumstances do not permit advance written notification. Telephone contact shall be made when the inmate's release is unexpected and immediate (i.e., court-ordered release, etc.).

(8) Returns of Supervision or CCC Violators. When a VWP inmate is returned to an institution for violation(s) of community supervision (parole, supervised release, mandatory release, probation violator, CCC failure), unit staff at the receiving facility shall notify the victim/witness by telephone, memorandum, or the BP-S323, Section #9. If attempts to notify the victim/witness have been unsuccessful for 60 days from the inmate's return, staff shall request cancellation using the procedures identified in Section 11.

Staff are not required to notify victims/witnesses when a VWP inmate is temporarily released on writ to other law enforcement authorities, or is approved for an escorted trip.

10. CORRESPONDENCE AND FILING. The Unit Manager is responsible for ensuring all notification and filing procedures comply with policy requirements.

a. Correspondence forwarded to a victim/witness, including forms BP-S323, shall be sent via certified mail, return receipt requested. The inmate's name or register number may NOT be noted on the receipt, and once returned to the institution, it must be filed in the FOI-Exempt, Section I, of the inmate's central file.

b. Staff shall document all communication (e.g., telephone, certified mail, etc) with a victim/witness, including unsuccessful contact attempts, on the Victim/Witness Notification Record (Attachment F). The Victim/Witness Notification Record should be filed in the FOI-Exempt, Section I, of the inmate's central file, and may not be disclosed to the inmate or any unauthorized third party.

c. An inmate's inclusion or the victim/witness's participation in the VWP program may not be disclosed to the inmate or any unauthorized third party. This proscription is not to preclude staff who manage mental health cases from taking actions that are intended to protect victims and the community.

d. Material that indicates an inmate's "VWP" status (markings, rosters, notations, etc.) may not be in the disclosable sections of the Central File. If institution staff believe this information has been compromised, the Bureau WVC shall be notified immediately.

11. [CANCELING THE NOTIFICATION REQUEST \$551.153

a. A victim and/or witness may request cancellation of the notification by contacting either the Bureau of Prisons or the U.S. Attorney from the prosecuting district. The Bureau of Prisons shall notify the victim and/or witness that his or her request for notification has been canceled.

b. Bureau of Prisons staff may cancel a notification request when the victim and/or witness has not responded within 60 calendar days to a Bureau of Prisons inquiry concerning whether the victim and/or witness wishes to continue receiving notification of the inmate's release(s).]

Prior to canceling a notification request, staff shall document (Attachment F) all efforts to contact the victim/witness, as well as the reason(s) for the attempted contact (i.e., inmate returned as a parole violator). At least one of the attempted contacts must be via certified mail, return receipt requested. If the certified mail is returned, staff shall attempt to telephone the individual, contact directory assistance or the Victim/Witness Coordinator in the United States Attorney's Office where the inmate was sentenced.

If unable to contact the victim/witness through these efforts, the Unit Manager shall send a brief memorandum requesting cancellation, including the action taken, to the Bureau WVC via electronic mail. If the Bureau WVC concurs with the request, the inmate's assignment will be deleted from SENTRY, and an EMS confirmation will be sent to the Unit Manager.

[c. A notification request by a victim and/or witness ordinarily terminates when the inmate has completed service of the sentence for the serious crime which resulted in the request for notification.]

12. STAFF NOTIFICATION. Any Bureau employee may request notification of an inmate's release or release-related proceedings by completing and forwarding a Staff Request for Victim/Witness Notification (Attachment G) to the Warden. The Warden shall provide any relevant comments and forward the request to the Assistant Director, Correctional Programs Division, who is the final approving authority.

For inclusion in the VWP notification process, staff must ordinarily meet the criteria established for being a "victim" or "witness" and "serious crime" as defined in Sections 5.a., 5.b., and 5.c. The inmate must be serving a federal sentence or under the jurisdiction of the Bureau.

13. TRAINING. All Bureau employees shall receive information and training on staff responsibilities to meet the requirements of this Program Statement, as part of the Basic Introductory Training for new employees at Glynco and Annual Refresher Training.

14. PUBLIC RELATIONS. Bureau staff shall maintain a high degree of professionalism and sensitivity at all times when dealing with victims/witnesses.

15. MAINTENANCE OF VWP FILES OF RELEASED INMATES. When a VWP inmate is approximately 30 days from projected release, the Bureau VWC will send the VWP file folder to the discharging institution or CCM. The Unit Manager or CCM shall ensure that the VWP file contents are filed in the FOI-Exempt section of the inmate's Central File.

16. RECOMMITMENT OF A VWP INMATE. If a VWP inmate is returned on a new commitment or for a violation of supervision, the institution shall immediately return the contents of the Central Office file to the Bureau VWC.

17. PROGRAM REVIEW RESPONSIBILITIES. Compliance with this Program Statement shall be examined by the Program Review Division, Correctional Programs Section, Central Office.

18. INSTITUTION SUPPLEMENT. Each institution shall create a Supplement to identify the institution VWC, to develop procedures for notifying unit managers of new VWP inmates, and to ensure an effective monitoring and tracking system is implemented. A copy of the Institution Supplement shall be forwarded to the respective Regional Correctional Program Administrator for review and approval.

19. PRETRIAL AND HOLDOVER DEFENDANTS/CIVIL COMMITMENTS.  
Responsibility for notifying a victim/witness regarding a  
defendant who is in pretrial custody, holdover status, or is  
committed for mental health evaluation or treatment, rests solely  
with the applicable U.S. Attorney's office.

/s/  
Kathleen M. Hawk  
Director

DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF PRISONS

(TO BE PREPARED ON INSTITUTION STATIONERY)

RE:

Dear:

We have received your request to be notified regarding the release and/or release proceedings of the above-referenced inmate. We fully recognize that the impact of crime is devastating to innocent victims, witnesses and their families. Therefore, we will make every effort to be responsive, informative and sensitive to your request. Your current address and telephone number have been provided to us by the U.S. Attorney's office in the district where the inmate was prosecuted. If this information is incorrect or if there are future changes in your address or telephone number, please advise us in writing of those changes. This information should be sent to the Bureau of Prisons' Victim/Witness Coordinator, Correctional Programs Branch, Federal Bureau of Prisons, 320 First Street, N.W., Washington, D.C. 20534.

We will make every effort to ensure your request for notification remains confidential. However, if this inmate learns through other means that you have made this request and threatens or attempts to intimidate you in any manner, please notify both the U.S. Attorney in the district where the inmate was prosecuted and the Bureau of Prisons' Victim/Witness Coordinator.

You may cancel your request for notification at any time by contacting either the Bureau of Prisons' Victim/Witness Coordinator or the U.S. Attorney from the prosecuting district. Also, your request may be canceled if you do not respond within 60 calendar days to any subsequent inquiries pertaining to this notification. Finally, a notification will ordinarily terminate when the inmate has completed service of the sentence for the crime which resulted in your request for notification.

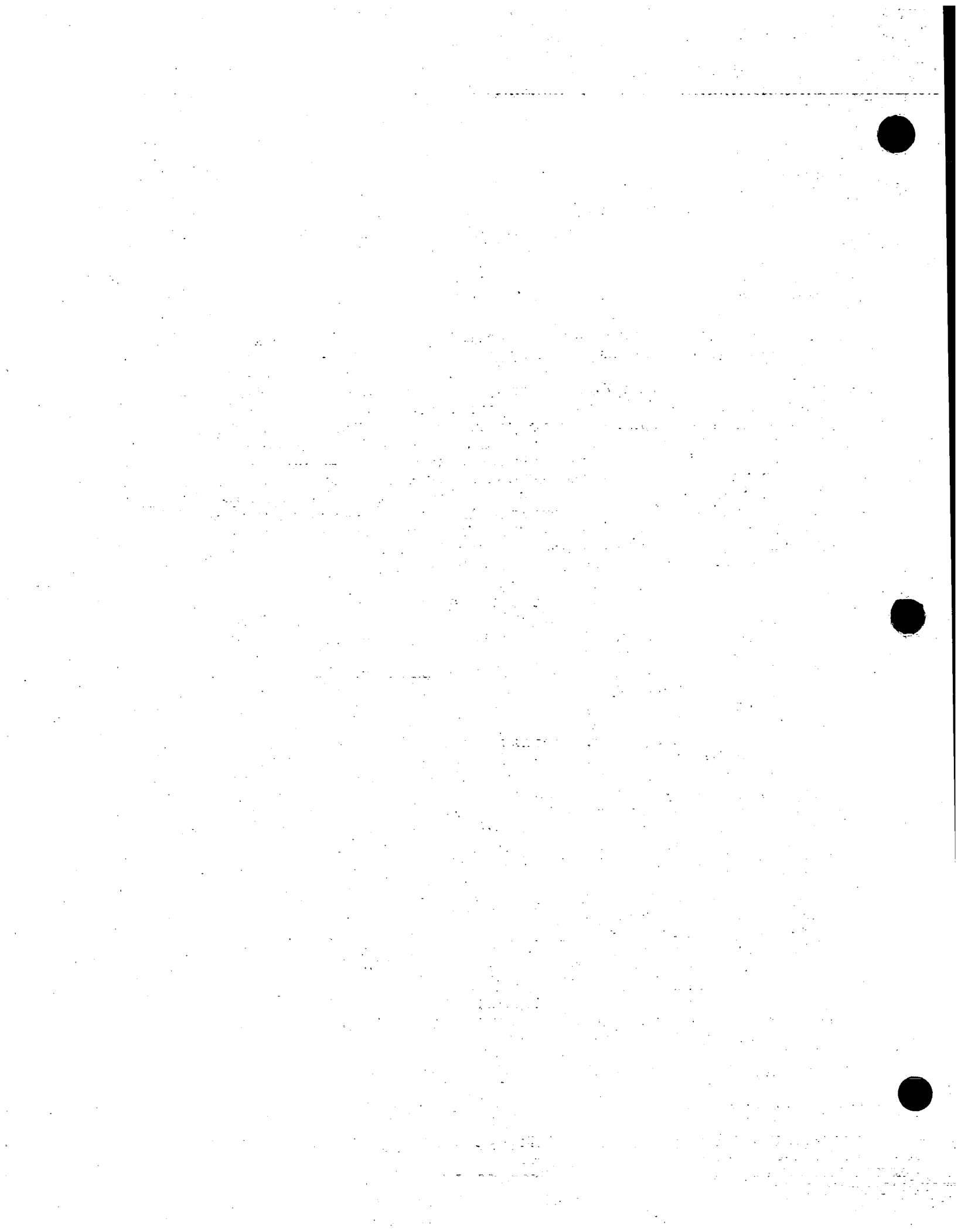
John Doe is currently scheduled for release on \_\_\_\_\_ via \_\_\_\_\_. He (is/is not) eligible for parole. (If he is eligible, specify that date here). Please be assured that, unless otherwise requested, we will keep you apprised of all significant release related activities pertaining to this inmate during the period of incarceration. If at any time you have any questions or concerns regarding this program, please do not hesitate to contact the Bureau's Victim/Witness Coordinator at the following "Toll-Free" number: \_\_\_\_\_.

Sincerely,

Warden

cc: FOI-Exempt, Section I, Inmate Central File





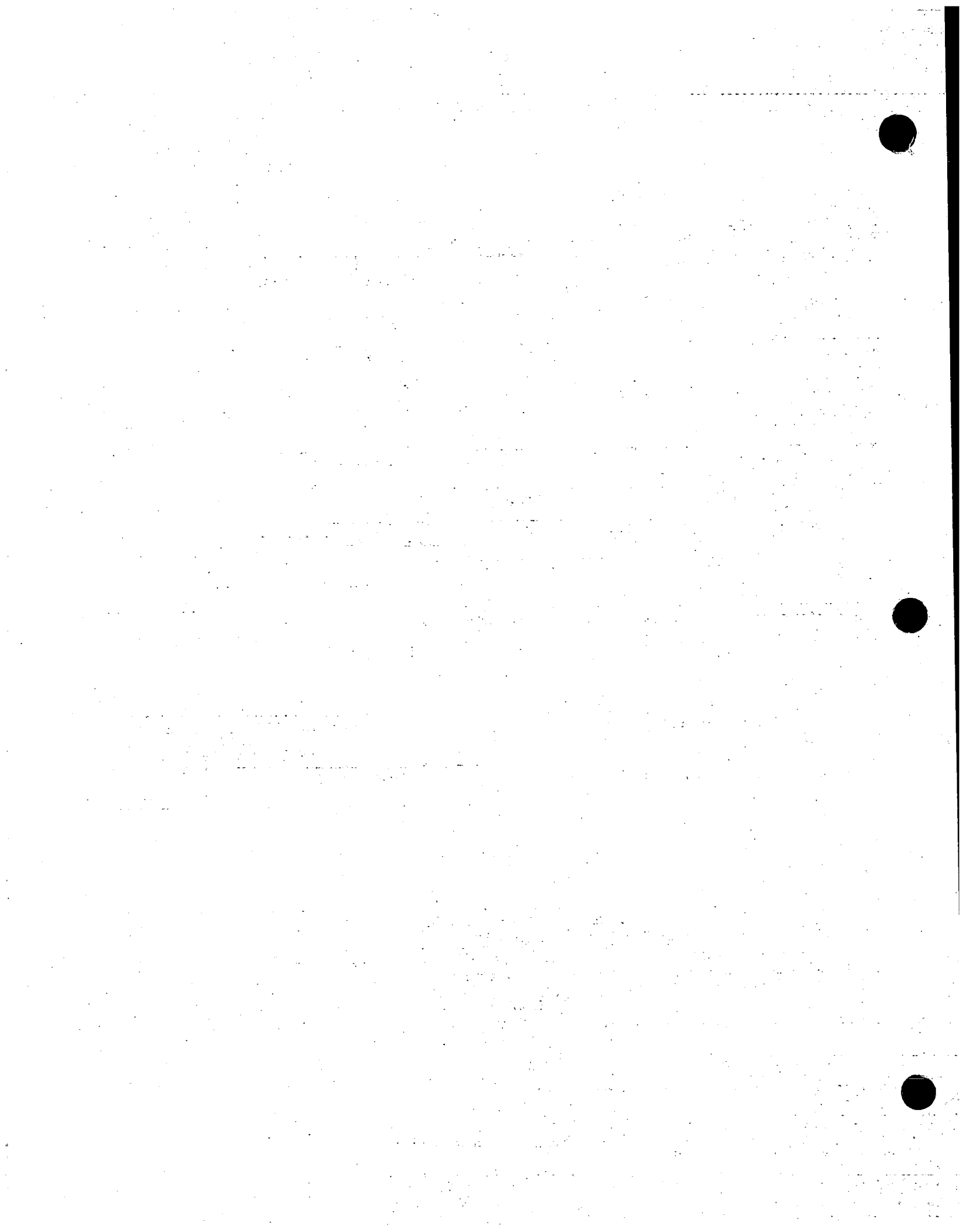
BP-S323.014 VICTIM AND WITNESS NOTICE CDFRM  
 APR 94

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

TO: (Address and Telephone Number)		FROM: (Name, Institution, Address and Telephone Number)
Name of Inmate	Register Number	
1. <input type="checkbox"/> Inmate (is) (is not) eligible for parole: on: _____	2. <input type="checkbox"/> Inmate is eligible for release on parole at the discretion of the United States Parole Commission.	
3. <input type="checkbox"/> Inmate is on furlough from: _____ to: _____	(Destination City and State)	
4. <input type="checkbox"/> Inmate is being transferred to a community corrections center. The name of the center is _____ located in (City and State) _____ Following a stay at the community corrections center the inmate is scheduled for: (Type of Release) _____ on (Date) _____		
5a. <input type="checkbox"/> Inmate's release date	5b. <input type="checkbox"/> Inmate's Method of release	
5c. <input type="checkbox"/> Inmate's release is under no community supervision (including no probation).		
5d. <input type="checkbox"/> Inmate's destination city or sentencing district is:	5e. <input type="checkbox"/> Inmate's Supervising United States Probation Office is:	
6. <input type="checkbox"/> Inmate is deceased - Date of Death:	7. <input type="checkbox"/> Inmate has escaped. Date and Time of Escape:	
8. <input type="checkbox"/> Inmate was apprehended from escape on:	(Inmate's Designation)	
9. <input type="checkbox"/> Other:		
10. <input type="checkbox"/> Your request for notification of inmate's release is being forwarded to the United States Attorney. A request for inmate's release information by a victim or witness must be approved by the U.S. Attorney in the district of prosecution.		
11. <input type="checkbox"/> We have canceled your request to be notified of this inmate's release for the following reason:		
Title	Signature of Unit Manager	Date

For questions, contact: (Name, Address, Telephone Number)



DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF PRISONS

(TO BE PREPARED ON INSTITUTION STATIONERY)

Dear \_\_\_\_\_

As requested, this is to notify you that \_\_\_\_\_, an inmate at this facility, is scheduled for an initial/review parole hearing tentatively scheduled for \_\_\_\_\_. If you wish to submit written comments for the parole hearing examiners, please send your comments no later than \_\_\_\_\_ to the following address:

U.S. Parole Commission  
Regional Office  
\_\_\_\_\_  
\_\_\_\_\_

If you so desire, you may mail your comments directly to this institution. In any case, if you wish that your comments to the Parole Commission remain confidential, you must specifically request so in your correspondence.

Please keep in mind that the information which you gave to the U.S. Probation Officer for the Victim Impact Statement in the presentence investigation report will be carefully considered by the U.S. Parole Commission.

You should also be advised that Parole Commission regulations permit interested parties to appear before, and to offer a statement at, the parole hearing. If you desire to do this, you may contact me at (Area Code & Telephone Number) or write me at this institution. Unless the Parole Commission finds cause to withhold permission for your attendance, we will advise you of the date and time for the hearing, and arrange the necessary security precautions for your visit.

Please understand that the scheduling of a parole hearing at this time is required by law or regulation and does not signify or imply that actual release on parole will result. The Parole Commission, at an initial parole hearing, will establish an appropriate guideline range for the inmate. This guideline range can be found in Title 28 Code of Federal Regulations (CFR) §2.20. Only if parole appears appropriate for any time within the next 15 years will the Commission set a presumptive parole date. Alternatively, the Commission may deny parole altogether or order a 15 year reconsideration hearing. The Commission's decision may be within the guideline range, or it may be above or below the guideline range if the Commission finds "good cause." An initial parole hearing may be held prior to an inmate's eligibility date; however, the Commission is not permitted by statute to order a release before this date.

P.S. 1490.03  
December 14, 1994  
Attachment D, Page 2

Statutory interim (review) hearings are for the sole purpose of considering any changes which may have occurred since the inmate last appeared before the Commission. The merits of any prior parole hearing will not be reconsidered, but the release decision itself may be changed if new events or new significant information warrant a change. You should be aware that regardless of the type of parole hearing, the Commission takes into account both the seriousness of the offense committed, including all surrounding circumstances, and the risk the inmate may pose to the public welfare.

If you have any questions concerning the parole process, please write to the U.S. Parole Commission Regional Office at the above address, or contact them by telephone at (\_\_\_\_)\_\_\_\_\_. You may also request the Parole Commission keep you informed of any future decisions in this case, even though you may have no comments to submit.

Sincerely,

---

Unit Manager

cc: FOI-Exempt, Section I, Inmate Central File  
U.S. Parole Commission, Regional Office

DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF PRISONS

DATE:

REPLY TO  
ATTN OF: \_\_\_\_\_, Unit Manager

SUBJECT: Victim/Witness Notification

TO: U.S. Parole Commission/Mini-File (Section I)  
Regional Office  
\_\_\_\_\_  
\_\_\_\_\_

RE: (NAME) \_\_\_\_\_

(NUMBER) \_\_\_\_\_

(INSTITUTION) \_\_\_\_\_

The above-referenced inmate is subject to the provisions of the Victim and Witness Protection Act of 1982 (Public Law 97-291). This inmate is scheduled for a hearing before the U.S. Parole Commission during the week of \_\_\_\_\_.

All victims and/or witnesses have been notified of this hearing. They have also been advised that they may appear before, and offer a statement at, this hearing or send comments to your office for consideration prior to this hearing. If requested, these comments may be kept confidential from the inmate.

This information is being provided for informational purposes only. There is no obligation for your agency to contact any victim and/or witness. If you have any questions regarding this case, please contact me or the Case Management Coordinator at the following number (FTS): \_\_\_\_\_.

cc:FOI-EXEMPT, SECTION I, Inmate Central File



OSD-P&R-LP

**Victim Assistance  
DoD Programs and Issues**

Presentation For  
**SYMPOSIUM ON VICTIMS OF  
FEDERAL CRIME**

OSD-P&R-LP

**DoD Victim Assistance Program  
DODD 1030.1 and DODI 1030.2**

- Implements requirements of Federal law
- Program under USD-P&R responsibility
- Requires DoD and Services to set up programs and Councils
- Requires officials to ensure victim rights are protected.
- Forms developed to protect rights

OSD-P&R-LP

**DoD Victim Witness Program  
Four Phases of Assistance**

<i>Initial Contact</i>	<i>Investigation</i>	<i>Prosecution</i>	<i>Incarceration</i>
Identify victim	Keep victim informed	Consult & provide notice proceedings	Provide confinement information
Provide information on rights	Protect from harassment	Secure waiting areas	Provide notice of parole hearings/release
<b>DD Form 2701</b>		<b>DD Forms 2702/2703</b>	<b>DD Forms 2704/2705</b>

OSD-P&R-LP

**AGENDA**

Victim Assistance Briefing

- Introduction
- DoD Victim Assistance Program
- Military Justice System
- Compensation for Crime Victims
- Conclusion

OSD-P&R-LP

**Victim Bill of Rights  
DODD 1030.1**

- Right to be treated with fairness and respect
- Right to be reasonably protected
- Right to be notified of proceedings
- Right to be present at proceedings
- Right to confer with attorney
- Right to available restitution
- Right to know outcome & release

OSD-P&R-LP

**DoD Victim Assistance  
Related Special Programs**

- Specialized Victim Assistance Programs
  - Navy Sexual Assault Victim Intervention Program
  - Family Advocacy Program
  - SPRINT & FACAT Crisis Action Teams
- DoD Equal Opportunity Program
- Defense Incident-Based Reporting System
  - Includes data on victim assistance
  - Includes data on most military crimes

OSD-P&R-LP



## OSD-P&amp;R-LP

Victim Issues in the Military Justice System  
Basic System

- Military Police or Agents Investigate Crimes
- Commanders Decide How to Redress
  - Administrative Procedures
  - Article 15 (Nonjudicial Punishment)
  - Court-Martial (Three Levels Possible)
- Court-Martial Decides Guilt & Sentence
- Commander Approves Findings & Sentence
- Appellate Courts Review Case

OSD-P&amp;R-LP

Victim Issues in the Military Justice System  
Recent Developments and Issues

- Rape and Carnal Knowledge
  - Gender neutral, no marital rape defense
  - "Constructive force" doctrine recognized
  - "Mistake of fact" defense
- New Offense: Stalking
- "Rape Shield Rule"
- "Kennedy-Smith Rule"
- Child Sex Rule

OSD-P&amp;R-LP

Victim Issues in the Military Justice System  
Procedural Rules

- Pretrial Rights
  - Pre-trial Agreement Consultation
  - Protection from Harassment and Abuse
  - Remedies for Failure to Prosecute
- Rights at Trial
  - Courtroom Confrontation
  - Provide Statement During Sentencing
- Rights after Trial
  - Right to Information About Sentence
  - Notice of Changes in Confinement Status

OSD-P&amp;R-LP

Victim Issues in the Military Justice System  
Sentencing

- Sentence Discretionary with Court
  - Victim Impact Evidence Permitted
  - Commander Approves
- Mandatory Forfeiture of Pay and Allowances
  - Pay to Dependents in Some Cases
  - Conditions for Suspension of Sentence
- Accused Eligible for Sentence Reduction
  - Clemency & Parole
  - Good Time

OSD-P&amp;R-LP

DoD Victim and Witness Program  
Compensation for Victims

- Article 139, UCMJ property claims
- Foreign Claims Act
- Restitution from offender
- Transitional compensation program
- Payment to abused spouses
- Compensation from state where crime occurred

OSD-P&amp;R-LP

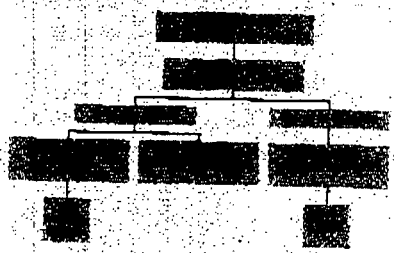
State Crime Victim Programs  
Available Services and Payments

- |   |   |
|---|---|
| <ul style="list-style-type: none"> <li>● Compensation*           <ul style="list-style-type: none"> <li>- Medical bills</li> <li>- Counseling</li> <li>- Funeral costs</li> <li>- Lost wages</li> <li>- Crime cleanup</li> <li>- Child care</li> <li>- Cost to attend case</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>● Services*           <ul style="list-style-type: none"> <li>- Crisis intervention</li> <li>- Counseling</li> <li>- Transportation</li> <li>- Housing</li> <li>- Advocacy</li> </ul> </li> </ul> |
|---|---|

OSD-P&amp;R-LP

OSD-P&R-LP

**Crime Victim Fund  
Military Participation**



OSD-P&R-LP

**Conclusion  
Victim Assistance**

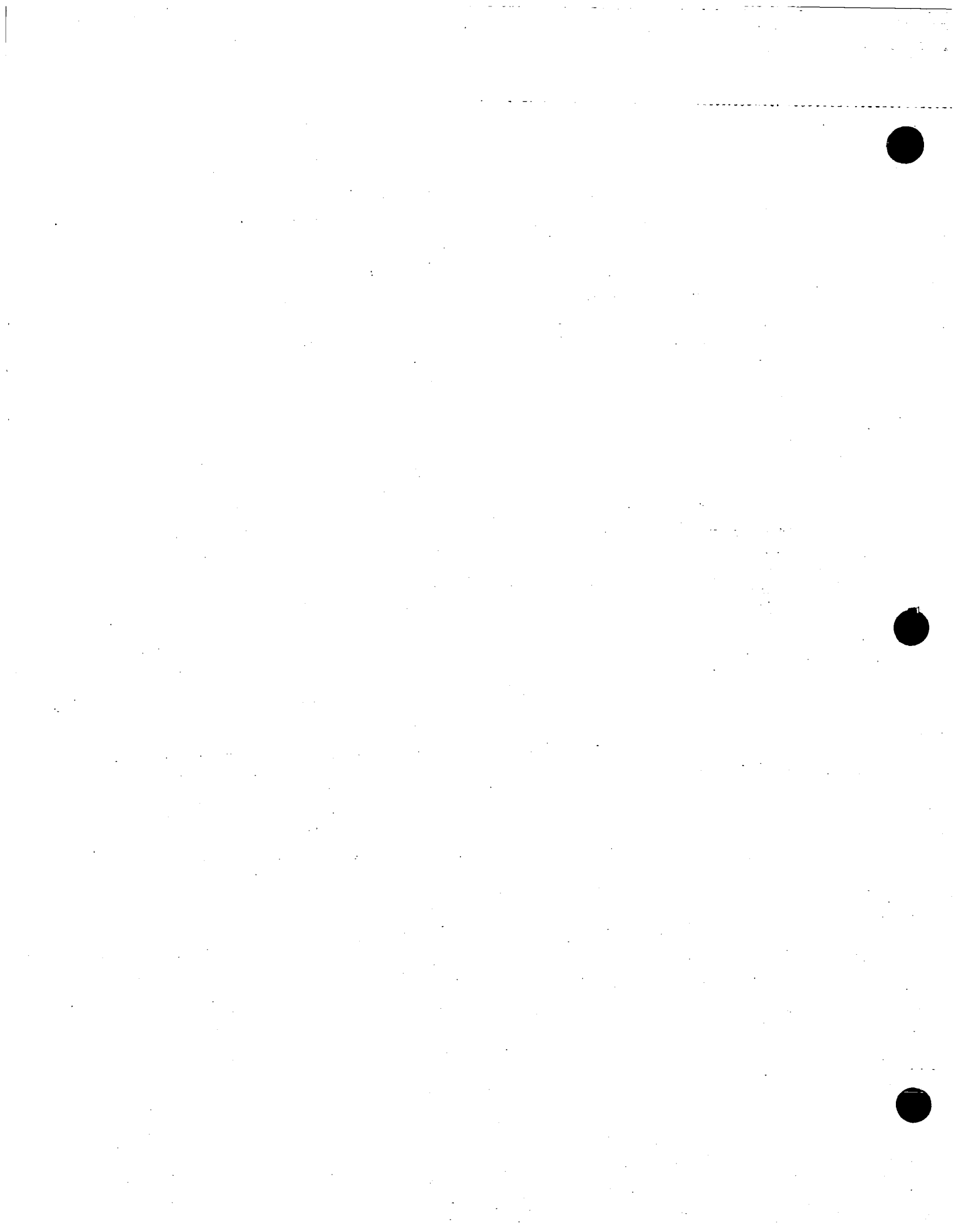
- DoD Victim Assistance Program
  - Military Services have separate programs
  - Officials required to respect victim rights
  - Assistance provided during all stages
- Military Justice System is Unique
- Compensation for Crimes is Available
  - Special DoD programs
  - From state where crime occurred

OSD-P&R-LP

**Victim and Witness Assistance  
DoD Points of Contact**

- Department of Defense
  - LTC Bernard P. Ingold (703) 697-5947
- Army
  - COL Charles Trent (703) 683-6433
- Air Force
  - Major Richard Russell (202) 767-1538
- Navy
  - LT Robert Hunt (703) 893-0718
- Marine Corps
  - Capt. John Henry (703) 814-1242

OSD-P&R-LP





# Department of Defense DIRECTIVE

November 23, 1994  
NUMBER 1030.1

USD(P&R)

SUBJECT: Victim and Witness Assistance

- References:
- (a) DoD Directive 1030.1, subject as above, August 20, 1984 (hereby canceled)
  - (b) Chapter 47 of title 10, United States Code, "Uniform Code of Military Justice"
  - (c) Section 10601 et seq. of title 42, United States Code
  - (d) Section 10681 of title 42, United States Code
  - (e) Sections 1512-1514 of title 18, United States Code, October 12, 1982
  - (f) DoD Instruction 1030.2, "Victim and Witness Assistance Procedures,"

## A. REISSUANCE AND PURPOSE

This Directive:

1. Reissues reference (a) to update DoD policies and assign responsibilities for providing assistance to victims and witnesses of crimes committed in violation of reference (b).

2. Implements references (c) through (e) by providing guidance for assisting victims and witnesses of crime from initial contact through investigation, prosecution, and confinement.

## B. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is operating as a Service in the Navy), the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

## C. DEFINITIONS

Terms used in this Directive are defined in enclosure 1.

D. POLICY

It is DoD policy that:

1. The necessary role of crime victims and witnesses in the criminal justice process should be enhanced and protected.

2. The DoD Components shall do all that is possible within limits of available resources to assist victims and witnesses of crime, in accordance with the requirements listed in DoD Instruction 1030.2 (reference (f)) without infringing on the constitutional rights of an accused. Particular attention should be paid to victims of serious, violent crime, including child abuse, domestic violence, and sexual misconduct.

3. This Directive is not intended to, and does not, create any entitlement, cause of action, or defense in favor of any person arising out of the failure to accord to a victim or a witness the assistance outlined in this Directive. No limitations are hereby placed on the lawful prerogatives of the Department of Defense or its officials.

4. Officers and employees engaged in the detection, investigation, or prosecution of crimes, shall ensure that victims are accorded their rights. As provided for in 42 U.S.C. 10601 et seq. (reference (c)) and 18 U.S.C. 1512-1514 (reference (e)), a crime victim has the right to:

a. Be treated with fairness and respect for the victim's dignity and privacy.

b. Be reasonably protected from the accused offender.

c. Be notified of court proceedings.

d. Be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

e. Confer with the attorney for the Government in the case.

f. Receive available restitution.

g. Be provided information about the conviction, sentencing, imprisonment, and release of the offender.

5. Court-martial convening authorities and clemency and parole boards shall consider making restitution to the victim a condition of granting pretrial agreements, reduced sentences, clemency, and parole. They may consider victim statements on the impact of crime.

## E. RESPONSIBILITIES

1. The Under Secretary of Defense for Personnel and Readiness shall:

a. Develop overall policy for victim and witness assistance and monitor compliance with this Directive under DoD Instruction 1030.2 (reference (f)).

b. Approve procedures developed by the Secretaries of the Military Departments that implement this Directive and are consistent with reference (f).

c. Establish a Victim and Witness Assistance Council to provide a forum for the exchange of information and the consideration of victim and witness policies, and provide a liaison with the Department of Justice (DoJ) Office for Victims of Crime.

d. Direct the Office of Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) to include in its publications for CHAMPUS-eligible members information about victims' entitlements to apply for compensation from State crime victims funds.

e. Direct the Defense Manpower Data Center to assist in formulating a data collection mechanism to track and report victim notifications from initial contact through investigation, prosecution, confinement, and release.

f. Change, reissue, or amend reference (f) as required.

2. The Inspector General of the Department of Defense shall develop investigative policy and perform appropriate oversight reviews of the management of the victim and witness assistance program by the DoD criminal investigative organizations. This is not intended to substitute for the routine managerial oversight of the program provided by the DoD criminal investigative organizations, the Office of the Under Secretary of Defense for Personnel and Readiness (OUSD (P&R)), the Heads of the DoD Components, the Component responsible officials, or the local responsible officials.

3. The Secretaries of the Military Departments and the Heads of the Other DoD Components shall:

a. Ensure compliance with this Directive and establish policies and procedures to implement this program within their Component.

b. Designate the "Component Responsible Official," as defined in item 2. of enclosure 1.

c. Designate a central repository, as defined in item 1. of enclosure 1, for each Military Service, to ensure that victims shall be notified of changes in confinee status.

d. Ensure that a multi-disciplinary approach is followed by victim and witness service providers, including law enforcement personnel, criminal investigators, chaplains, family advocacy personnel, emergency room personnel, family service center personnel, judge advocates, unit commanding officers, corrections personnel, and other persons designated by the Secretaries of the Military Departments; and ensure that those providers receive training to assist them in complying with this Directive.

e. Ensure distribution to local responsible officials of the DoJ Federal Resource Guide on Victim and Witness Assistance.

f. Establish procedures to ensure that local installation responsible officials:

(1) Provide victim and witness services as required in DoD Instruction 1030.2 (reference (f)) at the installation level through coordination with the representatives identified in paragraph E.3.d., above.

(2) Maintain the DoJ Federal Resource Guide on Victim and Witness Assistance as a reference.

g. Establish oversight procedures to ensure establishment of an integrated support system capable of providing the services outlined in reference (f). Such oversight could include coverage by Military Service or organizational Inspectors General, staff assistance visits, surveys, and status reports.

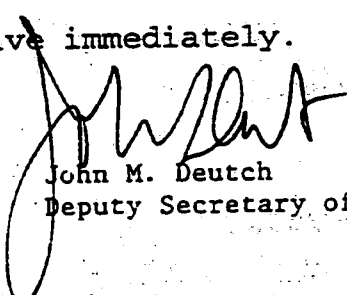
h. Report annually to OUSD(P&R) in the format prescribed in reference (f) for the preceding calendar year.

#### F. INFORMATION REQUIREMENTS

The annual reporting requirements in paragraph E.3.h., above, have been assigned Report Control Symbol DD-P&R(A)1952.

#### G. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately.

  
John M. Deutch  
Deputy Secretary of Defense

Enclosure - 1  
1. Definitions

## DEFINITIONS

1. Central Repository. A headquarters office, designated by the Service Secretary for each Military Service, to serve as a clearinghouse of information on confinee status and to collect and report data on the delivery of victim and witness assistance including notification of confinee status changes.

2. Component Responsible Official. Person designated by the Head of each DoD Component primarily responsible in the Component for coordinating, implementing, and managing the victim and witness assistance program established by this Directive.

3. Confinement Facility Victim Witness Assistance Coordinator. A staff member at a military confinement facility who is responsible for notifying victims and witnesses of changes in confinee status and reporting those notifications to the central repository.

4. Local Responsible Official. Person designated by the Component responsible official who has primary responsibility for identifying victims and witnesses of crime and for coordinating the delivery of services described in this Directive through a multi-disciplinary approach. The position or billet of the local responsible official will be designated in writing by Service regulation. The local responsible official may delegate responsibilities under this Directive as provided in DoD Instruction 1030.2 (reference (f)).

5. Victim. A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime committed in violation of the UCMJ (Chapter 47 of 10 U.S.C., reference (b)) (or in violation of the law of another jurisdiction if any portion of the investigation is conducted primarily by the DoD Components). Such individuals will include, but are not limited to, the following:

a. Military members and their family members.

b. When stationed outside the continental United States, DoD civilian employees and contractors, and their family members. This applies to services not available to DoD civilian employees and contractors, and their family members, in stateside locations, such as medical care in military medical facilities.

c. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term includes one of the following (in order of precedence): a spouse, legal guardian, parent, child, sibling, another family member, or another person designated by the court or the Component responsible official, or designee.



d. For a victim that is an institutional entity, an authorized representative of the entity. Federal Departments and State and local agencies, as entities, are not eligible for services available to individual victims.

6. Witness. A person who has information or evidence about a crime, and provides that knowledge to a DoD Component about an offense in the investigative jurisdiction of a DoD Component. When the witness is a minor, that term includes a family member or legal guardian. The term does not include a defense witness or an individual involved in the crime as a perpetrator or accomplice.



# Department of Defense INSTRUCTION

December 23, 1994

NUMBER 1030.2

USD(P&R)

SUBJECT: Victim and Witness Assistance Procedures

- References:
- (a) DoD Directive 1030.1, "Victim and Witness Assistance," November 23, 1994
  - (b) Chapter 47 of title 10, United States Code, "Uniform Code of Military Justice"
  - (c) Section 10606 et seq. of title 42, United States Code
  - (d) Section 10681 of title 42, United States Code
  - (e) through (i), see enclosure 1

## A. PURPOSE

This Instruction:

1. Implements policy, assigns responsibilities, and prescribes procedures under reference (a) to provide assistance to victims and witnesses of crimes committed in violation of reference (b).
2. Implements references (c) through (i) by providing guidance for assisting victims and witnesses of crime from initial contact through investigation, prosecution, and confinement.
3. Establishes the "Victim and Witness Assistance Council."

## B. APPLICABILITY

This Instruction applies to the Office of the Secretary of Defense, the Military Departments (including the Coast Guard when it is operating as a Service in the Navy), the Chairman of the Joint Chiefs of Staff, the Unified Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies, and the DoD Field Activities (hereafter referred to collectively as "the DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

## C. DEFINITIONS

Terms used in this Instruction are defined in enclosure 2.

## D. POLICY

It is DoD policy that:

1. The necessary role of crime victims and witnesses in the criminal justice process should be enhanced and protected.

2. The DoD Components shall do all that is possible within limits of available resources to assist victims and witnesses of crime, in accordance with the requirements listed in section F, below, without infringing on the constitutional rights of an accused. Particular attention should be paid to victims of serious, violent crime, including child abuse, domestic violence, and sexual misconduct.

3. This Instruction is not intended to, and does not, create any entitlement, cause of action, or defense in favor of any person arising out of the failure to accord to a victim or a witness the assistance outlined in this Instruction. No limitations are hereby placed on the lawful prerogatives of the Department of Defense or its officials.

4. Officers and employees engaged in the detection, investigation, or prosecution of crimes, and the confinement of criminals, shall ensure that victims are accorded their rights. As provided for in 42 U.S.C. 10606 et seq. (reference (c)) and 18 U.S.C. 1512-1514 (reference (e)), a crime victim has the right to:

- a. Be treated with fairness and respect for the victim's dignity and privacy.
- b. Be reasonably protected from the accused offender.
- c. Be notified of court proceedings.
- d. Be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
- e. Confer with the attorney for the Government in the case.
- f. Receive available restitution.
- g. Be provided information about the conviction, sentencing, imprisonment, and release of the offender.

5. Court-martial convening authorities and clemency and parole boards shall consider making restitution to the victim a condition of granting pretrial agreements, reduced sentences, clemency, and parole. They may consider victim statements on the impact of crime.

E. RESPONSIBILITIES

1. The Under Secretary of Defense for Personnel and Readiness shall:

a. Develop overall policy for victim and witness assistance and monitor compliance with this Instruction.

b. Approve procedures developed by the Secretaries of the Military Departments that implement this Instruction and are consistent with section F., below.

c. Change, reissue, or amend this Instruction as required.

d. Ensure the Office of Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) includes in its publications for CHAMPUS-eligible members information about victims' entitlements to apply for compensation from State crime victims funds.

e. Ensure the Defense Manpower Data Center assists in formulating a data collection mechanism to track and report victim notifications from initial contact through investigation, prosecution, confinement, and release.

f. Establish an interdisciplinary Victim and Witness Assistance Council to provide a forum for the exchange of information and the consideration of victim and witness policies, to provide a liaison with the Department of Justice Office for Victims of Crime, and to coordinate the victims' advocates programs under 10 U.S.C. 113 note (reference (f)). The membership of the Council shall be selected from members of the Armed Forces and officers and employees of the Department of Defense having expertise in the disciplines and professions addressed in paragraph E.2.f., below. The Council will meet quarterly or at the call of the chair.

2. The Secretaries of the Military Departments and the Heads of the Other DoD Components shall:

a. Ensure compliance with this Instruction and establish policies and procedures to implement the victim and witness assistance program within their Component.

b. Designate the Component responsible official, as defined in item 2. of enclosure 2, for the victim and witness assistance program, who will report annually to the Under Secretary of Defense for Personnel and Readiness using DD Form 2706, "Victim and Witness Assistance Annual Report" (enclosure 8).

c. Provide for the assignment of personnel in sufficient numbers to enable those programs identified in 10 U.S.C. 113 note (reference (f)) to be carried out effectively.

d. Designate a central repository for confinee information, as defined in item 1. of enclosure 2, for each Military Service, and establish procedures to ensure victims who so elect are notified of changes in inmate status.

e. Establish an interdisciplinary Victim and Witness Assistance Council in accordance with reference (f) to coordinate the development of policy recommendations and the implementation of the Victims' Advocate program within their respective programs of victim and witness assistance, family advocacy, and equal opportunity.

f. Establish a Victim and Witness Assistance Council, to the extent practicable, at each significant military installation, to ensure an interdisciplinary approach is followed by victim and witness service providers. These providers may include law enforcement personnel, criminal investigators, chaplains, family advocacy personnel, emergency room personnel, family service center personnel, equal opportunity personnel, judge advocates, unit commanding officers, corrections personnel, and other persons designated by the Secretaries of the Military Departments.

g. Establish a training program to ensure the providers listed in paragraph E.2.f., above, receive instruction to assist them in complying with this Instruction.

h. Ensure distribution to local responsible officials of the Department of Justice (DoJ) Federal Resource Guide on Victim and Witness Assistance.

i. Designate local responsible official positions. The local responsible official (also referred to by Services as Victim/Witness Coordinator, Victim/Witness Liaison, and Victims' Advocate) shall ensure that systems are in place at the installation level to provide information on available benefits and services, assistance in obtaining those benefits and services, and other services required in section F., below. The local responsible official may delegate as appropriate, but retains responsibility for delivery of required services. To coordinate the delivery of services, the local responsible official may use an interdisciplinary approach involving the various service providers listed in paragraph E.2.f., above.

j. Establish oversight procedures to ensure establishment of an integrated support system capable of providing the services outlined in section F., below. Such oversight could include coverage by Military Service or organizational Inspectors General, staff assistance visits, surveys, and status reports.

3. The Inspector General of the Department of Defense shall develop investigative policy and perform appropriate oversight reviews of the management of the victim and witness assistance program by the DoD criminal investigative organizations. This is not intended to substitute for the routine managerial oversight of the program provided by the DoD criminal investigative organizations, the Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), the Heads of DoD Components, the Component responsible officials, or the local responsible officials.

F. PROCEDURES

1. Initial Information and Services to be Provided to Victims and Witnesses. At the earliest opportunity after identification of a crime victim or witness, the local responsible official, law enforcement officer, or criminal investigation officer shall provide the following services to each victim and witness, as appropriate: The DD Form 2701, "Initial Information for Victims and Witnesses of Crime," (enclosure 3) shall be used as a handout to convey basic information and points of contact. The date it is given to the victim or witness is reportable beginning July 1, 1995, and shall be annotated on the DD Form 1569, "Incident Complaint Report," or computer-generated equivalent. Until the DD Form 1569 is available in forms distribution channels, existing Service incident report forms may be used to annotate the date the DD Form 2701 is given. This annotation serves as evidence that the officer notified the victim or witness of statutory rights. The following services shall also be provided by the local responsible official or designee:

a. Information about available military and civilian emergency medical and social services and, when necessary, assistance in securing such services.

b. Information about restitution or other relief a victim may be entitled to under 42 U.S.C. 10601 et seq. (reference (c)), 42 U.S.C. 10681 (reference (d)), 18 U.S.C. 1512-1514 (reference (e)), or other applicable laws, and the manner in which such relief may be obtained.

c. Information to victims of intra-familial abuse offenses on the availability of limited transitional compensation benefits and possible entitlement to some of the active duty member's retirement benefits under 10 U.S.C. 1058, 1059, and 1408 (reference (i)).

d. Information about public and private programs that are available to provide counseling, treatment, and other support, including available compensation through Federal, State, and local agencies, using the DoJ Federal Resource Guide to Victim and Witness Assistance from the Office for Victims of Crime.

e. Information about the prohibition against intimidation and harassment of victims and witnesses, and arrangements for the victim or witness to receive reasonable protection from threat, harm, or intimidation from a suspected offender and from people acting in concert with or under the control of the suspected offender.

f. Information about the military criminal justice process, the role of the victim or witness in the process, and how the victim or witness can obtain additional information concerning the process and the case.

g. If necessary, assistance in contacting the people responsible for providing victim and witness services and relief.

2. Information to be Provided During Investigation of a Crime. If the victim or witness has not already received the DD Form 2701 from law enforcement officials, it shall be used by investigators as a handout to convey basic information and points of contact. The date it is given to the victim or witness is reportable beginning July 1, 1995, and shall be annotated on the DD Form 1569, "Incident Complaint Report," or computer generated equivalent as specified in subsection F.1., above. This annotation serves as evidence that the officer notified the victim or witness of statutory rights. Law enforcement investigators and criminal investigators shall inform all victims and witnesses, as appropriate, of:

a. The status of the investigation of the crime, to the extent providing such information does not interfere with the investigation.

b. The arrest of the suspected offender.

c. A decision not to pursue prosecution.

d. The preferral or referral of charges against the suspected offender.

3. Information and Services to be Provided During the Prosecution of a Crime. The following services shall be provided by government trial counsel or designee to victims and witnesses upon referral of an offense to court-martial: The DD Form 2702, "Court-Martial Information for Victims and Witnesses," (enclosure 4) shall be used as a handout to convey basic information about the court-martial process. The date it is given to the victim or witness is reportable beginning July 1, 1995, and shall be annotated on the DD Form 1569, "Incident Complaint Report," or computer-generated equivalent as specified in paragraph F.1., above. When applicable, the following shall be provided to victims:

a. Notification of the initial appearance of the suspected offender before a judicial officer at a pretrial confinement hearing or at an Article 32, UCMJ, investigation (10 U.S.C. 832, reference (b)).

b. Notification of and consultation concerning the release of the suspected offender from pre-trial confinement.

c. Consultation concerning the decision not to prefer charges against the suspected offender.

(This consultation and those listed in paragraphs F.3.d.-g., below, may be limited to avoid endangering the safety of a victim or witness, jeopardizing an ongoing investigation, disclosing classified or privileged information, or unduly delaying the disposition of an offense. Although the victim's views should be considered, this Instruction is not intended to limit the responsibility or authority of the Military Service or Defense Agency officials to act in the interest of good order and discipline.)

d. Explanation of the court-martial process upon referral to trial.

e. Notification of the scheduling, including changes and delays, of each court proceeding the victim is entitled to or required to attend.

f. Consultation concerning a decision to dismiss the charges, or to enter into a pretrial agreement.

g. Notification of the disposition of the case, to include the acceptance of a plea of "guilty," the rendering of a verdict, or the withdrawal or dismissal of charges.

h. Prior to the actual court-martial, provide assistance in obtaining available services such as transportation, parking, child care, lodging, and courtroom translators or interpreters that may be necessary to allow the victim or witness to participate in court proceedings.

i. During the court proceedings, convening authorities should provide a private waiting area out of the sight and hearing of the accused and defense witnesses. In the case of proceedings conducted aboard ship or in a deployed environment, provide the private waiting area to the greatest extent practicable.

j. After court proceedings, take appropriate action to ensure that property of a victim or witness held as evidence is safeguarded and returned as expeditiously as possible.

k. Notification to victims of the opportunity to present to the court at sentencing, in compliance with applicable law and



regulations, a statement of the impact of the crime on the victim including financial, social, psychological, and physical harm suffered by the victim.

1. Notification of the sentence imposed on an offender, including the date on which the offender will be eligible for parole, if applicable.

m. Upon request, inform the victim's or witness' employer of the reasons for the employee's absence from work, or inform creditors of the inability of the victim or witness to make timely payments on accounts, if such absence or inability to pay is caused by the crime or cooperation in the investigation or prosecution. This requirement does not create an independent entitlement to legal assistance or a legal defense against claims of indebtedness.

n. Process all requests from a victim or witness for release of investigative reports or other documents in accordance with DoD 5400.7-R (reference (g)). The local responsible official may authorize release of a copy of the record of trial without cost to a victim when necessary to lessen the physical, psychological, or financial hardships suffered as a result of the criminal act.

4. Information and Services to be Provided Upon Order to Confinement. The following services shall be provided by the government trial counsel or designee to victims and witnesses upon sentencing of an offender to confinement in a court-martial: The DD Form 2703, "Post-Trial Information for Victims and Witnesses," (enclosure 5) shall be used as a handout to convey basic information about the post-trial process. The date it is given to the victim or witness is reportable beginning July 1, 1995, and shall be annotated on the DD Form 1569-3, "Incident Complaint Report - Result of Trial," or computer-generated equivalent as specified in subsection F.1., above. When appropriate, the following shall be provided victims and witnesses:

a. General information regarding convening authority action, the corrections process, information about work release, furlough, probation, parole, or other forms of release from custody, and eligibility for each.

b. Specific information regarding the election to be notified of changes in inmate status. The DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status," (enclosure 6) shall be used for victims and appropriate witnesses (those who fear harm by the offender) to elect to be notified of changes in the offender's status in confinement. For all cases resulting in a sentence to confinement, the DD Form 2704 shall be completed and forwarded to the Service central repository, the gaining confinement facility, the local responsible official, and the victim or witness if any. The date it is

given to the victim or witness is reportable beginning July 1, 1995, and shall be annotated on the DD Form 1569-3, or computer-generated equivalent as specified in subsection F.1., above. Until the DD Form 1569-3 is available, the date the victim or witness elects to be notified may be annotated on existing Service result of trial forms. (Do not allow the confinee access to DD Forms 2704 or 2705 or attach a copy of the forms to any record to which the confinee has access. Doing so could endanger the victim or witness. The DD Forms 2704 and 2705 are exempt from release under the Freedom of Information Act (FOIA).)

5. Information and Services to be Provided Upon Entry into Confinement Facilities. The victim and witness assistance coordinator at the military confinement facility shall:

a. On entry of an offender into post-trial confinement, obtain the DD Form 2704 to determine victim or witness notification requirements. If the form is unavailable, inquire of the Service central repository whether any victim or witness has requested notification of changes in inmate status in the case.

b. When a victim or witness has requested notification of changes in inmate status on the DD Form 2704, and that status changes as listed in subparagraphs F.5.b.(1)-(5), below, use the DD Form 2705, "Victim and Witness Notification of Changes in Inmate Status," (enclosure 7) to notify the victim or witness. The date of such notifications is reportable beginning July 1, 1995 and shall be annotated on appropriate Service forms to comply with the reporting requirement in subparagraph F.6.a.(5). Provide the earliest possible notice of:

(1) The scheduling of a clemency or parole hearing for the inmate.

(2) The transfer of the inmate from one facility to another.

(3) The escape (and subsequent return to custody), work release, furlough, or any other form of release from custody of the inmate.

(4) The release of the inmate to parole supervision.

(5) The death of the inmate, if the inmate dies while in custody.

c. Make reasonable efforts to notify all victims and witnesses who have requested notification of changes in inmate status of any emergency or special temporary home release granted a inmate.

d. On transfer of a inmate to another military confinement facility, forward the DD Form 2704 to the gaining facility, with an information copy to the central repository.

e. Annually report the status of victim and witness notification requests to the Service central repository as required by section G., below.

## 6. Reporting Procedures

a. To comply with the requirements of references (c) through (h), the Component responsible official shall submit an annual report using the DD Form 2706 to the Under Secretary of Defense for Personnel and Readiness, Attention: Legal Policy Office, 4000 Defense Pentagon, Washington, DC 20301-4000. The report shall be submitted by March 15 for the preceding calendar year and shall address the assistance provided victims and witnesses of crime. It will be derived from data collected using DD Forms 1569 and 1569-3, computer-generated equivalents, or appropriate Service forms (until the DD Forms 1569 and 1569-3 are available). All Components must use these forms or the computer-generated equivalent for incident reporting as soon as they are available in forms distribution channels. Tracking the services provided to victims and witnesses will begin effective July 1, 1995. The report is due annually beginning March 15, 1996 for the preceding calendar year. The report due on March 15, 1996 will cover the period from July 1, 1995 to December 31, 1995. The report shall include the following:

(1) The number of victims and witnesses who received a DD Form 2701 from law enforcement or criminal investigations personnel. This number is derived from the DD Form 1569 or existing Service incident report forms.

(2) The number of victims who received a DD Form 2702 from government trial counsel or designee. This number is derived from the DD Form 1569-3 or appropriate Service forms.

(3) The number of victims and witnesses who received a DD Form 2703 from government trial counsel or designee. This is derived from the DD Form 1569-3 or appropriate Service forms.

(4) The number of victims and witnesses who elected via the DD Form 2704 to be notified of changes in inmate status. This number is derived from the DD Form 1569-3 or appropriate Service forms.

(5) The number of victims and witnesses who were notified by confinement Victim Witness Assistance Coordinators via the DD Form 2705 of changes in inmate status. This number is derived from appropriate Service forms.

(6) The cumulative number of inmates in each Service for whom victim witness notifications must be made by each Service's confinement facilities. These numbers are derived by totaling the number of inmates with victim or witness notification requirements as of July 1, 1995, adding new inmates with the

the requirement, and then subtracting those confinees who were released, deceased, or transferred to another facility (Federal, State, or sister Service) during the year.

b. OUSD(P&R) shall consolidate all reports submitted as prescribed in subsection F.6., above, and submit an annual report to the Office for Victims of Crime, Department of Justice.

G. INFORMATION REQUIREMENTS

The annual reporting requirement in paragraph F.6.a., above, has been assigned Report Control Symbol DD-P&R(A)1952.

H. EFFECTIVE DATE AND IMPLEMENTATION

The annual reporting requirement in paragraph F.6.a., above is effective July 1, 1995 with the first report due March 15, 1996. The remaining provisions of this Instruction are effective immediately. The Military Departments shall forward two copies of implementing documents to the Under Secretary of Defense for Personnel and Readiness within 120 days.



Edwin Dorn  
Under Secretary of Defense  
(Personnel and Readiness)

Enclosures - 8

1. References
2. Definitions
3. Sample DD Form 2701
4. Sample DD Form 2702
5. Sample DD Form 2703
6. Sample DD Form 2704
7. Sample DD Form 2705
8. Sample DD Form 2706

References, continued

- (e) Sections 1512-1514 of title 18, United States Code
- (f) Section 113 note of title 10, United States Code  
(Section 534, Public Law 103-337, "National Defense  
Authorization Act for Fiscal Year 1995," October 5,  
1994)
- (g) DoD 5400.7-R, "DoD Freedom of Information Act Program,"  
October 1990, authorized by DoD Directive 5400.7, May  
13, 1988
- (h) DoD Instruction 7730.47, "Statistical Report of Criminal  
Activity and Disciplinary Infractions in the Armed  
Forces," May 16, 1973
- (i) Sections 1058, 1059 and 1408 of title 10, United States  
Code

DEFINITIONS

1. Central Repository. A headquarters office, designated by the Secretary for each Military Department to serve as a clearing-house of information on inmate status and to collect and report data on the delivery of victim and witness assistance including notification of inmate status changes.

2. Component Responsible Official. Person designated by the Head of each DoD Component primarily responsible in the Component for coordinating, implementing, and managing the Victim and Witness Assistance Program established by this Instruction.

3. Confinement Facility Victim and Witness Assistance Coordinator. A staff member at a military confinement facility who is responsible for notifying victims and witnesses of changes in inmate status and reporting annually the number of those notifications to the Service central repository.

4. Local Responsible Official. Person designated by the Component responsible official who has primary responsibility for identifying victims and witnesses of crime and for coordinating the delivery of services described in this Instruction through an interdisciplinary approach. The position or billet of the local responsible official will be designated in writing by Service regulation. The local responsible official may delegate responsibilities under this Instruction as provided in paragraph E.2.i., above.

5. Victim. A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime committed in violation of the UCMJ (reference (b)), (or in violation of the law of another jurisdiction if any portion of the investigation is conducted primarily by the DoD Components). Such individuals shall include, but are not limited to, the following:

a. Military members and their family members.

b. When stationed outside the continental United States, DoD civilian employees and contractors, and their family members. This applies to services not available to DoD civilian employees and contractors, and their family members, in stateside locations, such as medical care in military medical facilities.

c. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term includes one of the following (in order of precedence): a spouse, legal guardian, parent, child, sibling, another family member, or another person designated by the court or the Component responsible official, or designee.

d. For a victim that is an institutional entity, an authorized representative of the entity. Federal Departments and State and local agencies, as entities, are not eligible for services available to individual victims.

6. Witness. A person who has information or evidence about a crime, and provides that knowledge to a DoD Component about an offense in the investigative jurisdiction of a DoD Component. When the witness is a minor, that term includes a family member or legal guardian. The term witness does not include a defense witness or an individual involved in the crime as a perpetrator or accomplice.

increased concern for their personal safety and that of their family, trouble concentrating on the job, difficulty handling everyday problems, feeling overwhelmed, and thinking of the crime repeatedly.

Some or all of these behaviors may occur and will ease with time. They are normal reactions but you may wish to see a counselor. State compensation funds may be available to reimburse you for such counseling. The Victim/Witness Assistance Responsible Official will have further information.

**Your Rights As A Victim.**

As a Federal crime victim, you have the following rights:

- The right to be treated with fairness and with respect for your dignity and privacy;
- The right to be reasonably protected from the accused offender;
- The right to be notified of court proceedings;
- The right to be present at all public court proceedings related to the offense, unless the court determines that your testimony would be materially affected if you as the victim heard other testimony at trial;
- The right to confer with the attorney for the government in the case;
- The right to available restitution;
- The right to information about the conviction, sentencing, imprisonment, and release of the offender.

**If You Need Additional Assistance:**

In regard to the status of the investigation, contact the investigator below:

David F. Smith  
(Name)  
(999) 123-4567  
(Telephone Number)

In regard to other assistance available, contact the command Victim/Witness Responsible Official, or the person identified below:

Robert Jones  
(Name)  
(123) 456-7890  
(Telephone Number)

In regard to the prosecution, contact the legal office below:

Eric Prosecute  
(Name)  
(777) 234-4321  
(Telephone Number)

In regard to compensation for medical or other expenses, contact the state office for Crime Victim Compensation:

Sara Help  
(Name)  
(777) 777-7777  
(Telephone Number)

Please notify these offices of any changes of address or telephone number.

For further information on crime issues, contact:

Office for Victims of Crime Resource Center  
1-800-627-6872

**DEPARTMENT OF DEFENSE**



**INITIAL  
INFORMATION FOR  
VICTIMS AND WITNESSES  
OF CRIME**



### Initial Information For Victims and Witnesses of Crime

Introduction. We are concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may experience anger, frustration, or fear as a result of your experience. The officer responsible for Victim/Witness Assistance (Victim/Witness Liaison or Advocate) at your installation can help.

We have prepared this brochure to help you deal with the problems and questions which often surface during an investigation and to provide you with a better understanding of how the military criminal justice system works. Your continued assistance is greatly needed and appreciated.

A criminal investigation can be both complex and lengthy and may involve several agencies, some Federal and some local. If you request, you will be kept informed of the status of your case by the investigator handling your case. His or her name is on the back of this brochure.

If You Are Threatened Or Harassed. If anyone threatens you or you feel that you are being harassed because of your cooperation with this investigation, contact the investigator or the Victim/Witness Responsible Official right away. It is a crime to threaten or harass a victim or witness.

If You Were Injured. If you do not have insurance to pay the cost of your medical or counseling bills, or related expenses, the state Crime Victim Compensation office may be able to assist. The telephone number for this office is on the back of this brochure.

If You Were a Victim of Spouse or Child Abuse. For your safety, you may want a restraining order, or temporary shelter. For information about these steps or about counseling services, call the Victim/Witness Responsible Official. If the offender is convicted or discharged for abusing you or your children, you may be eligible for "transitional compensation" benefits. Contact the prosecutor identified on the back of this brochure for further information.

Restitution. If an individual is arrested and prosecuted in federal court, you may be eligible for restitution. Restitution is court-ordered payment to you as a victim of crime. It is made by the offender for any out of pocket expenses caused by the crime. Restitution cannot be ordered as a sentence in a military court-martial, but it can be used as a condition of a pre-trial agreement to plead guilty to an offense, or as a condition of clemency or parole.

If Property Was Stolen. If your property was stolen, we hope to recover it as part of our investigation. If we do, we will notify you and return it to you as quickly as possible. Sometimes property needs to be held as evidence for trial. We will return your property once it is no longer needed as evidence.

If You Need Assistance With Your Employer or Command. If you have problems at work because of the crime or the investigation, we can contact your employer or Commanding Officer to discuss the importance of your role in the case.

If An Arrest Is Made. If you ask, you will be notified if a suspect is arrested. Since criminal defendants may be released before trial, you can ask for a restraining order to help protect you from the suspect.

Trial. Once an offense has been referred to trial, you will be contacted by the military trial counsel (prosecutor) or the Assistant U.S. Attorney assigned to handle your case, as appropriate. Each command and U.S. Attorney has a Victim/Witness Responsible Official to help answer your questions and deal with your concerns during the prosecution. You have the right to be consulted at key stages in the trial and will be informed of these rights by trial counsel.

Confinement. If the accused is sentenced to confinement (prison), you have a right to notification of changes in the confinee's status. Use a DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status", to request that the confinement facility notify you of parole hearings, escape, release, or death of the confinee.

The Emotional Impact of Crime. Many victims and witnesses are emotionally affected by the crime. Although everyone reacts differently, victims and witnesses report some common behaviors, such as

Sentencing.

In this phase, the judge or members (jury) decide the appropriate types and amount of punishment. The Trial Counsel may call witnesses to show aggravating factors concerning the offenses. The defense may call witnesses to show the offense may be less serious than otherwise indicated. You may be asked to return to the witness stand and testify as to how the crime has affected you. This may include the emotional, physical and financial suffering you experienced.

Punishment.

The court-martial ends when the judge reads the sentence to the accused. Normally, any confinement ordered begins at the time the sentence is announced. Other parts of the sentence, such as forfeitures of pay and reduction in rank, take effect after the "convening authority", usually a senior officer, takes "action" on the case. This generally occurs within two to three months, but can take longer in more complex cases.

If the accused is sentenced to prison, you have additional rights to notification of any changes in the inmate's status. These will be explained to you by the Trial Counsel or a designated representative.

If the offender is convicted or discharged for abusing you or your children, you may be eligible for "transitional compensation" benefits. Contact the Trial Counsel for an application (DD Form 2707) and for further information.

Your Participation.

You may choose to participate in the trial at several stages. You may ask to be:

- Notified of and be present at all public court proceedings;
- Consulted on pre-trial confinement of accused and release of accused from pre-trial confinement;
- Contacted about the proposed dismissal of any and all charges;
- Consulted on decision not to prosecute;
- Contacted regarding the proposed terms of any negotiated plea;
- Consulted on proposed terms of any pre-trial agreement;
- Notified of the acceptance of a guilty plea; to present to the court evidence on sentencing;
- Informed about the conviction, sentencing, and imprisonment of the accused.

Points of Contact:

Victim/Witness Responsible Official

Robert Jones  
 (Name)  
 (123) 456-7890  
 (Telephone Number)

Trial Counsel

Eric Prosecute  
 (Name)  
 (777) 234-4321  
 (Telephone Number)

For further information on crime issues, contact:

Office for Victims of Crime Resource Center  
1-800-627-6872

DEPARTMENT OF  
DEFENSE



Dec 23, 94  
1030.2 (Enc 4)

COURT-MARTIAL  
INFORMATION FOR  
VICTIMS AND WITNESSES  
OF CRIME

### Court-Martial Information

#### For Victims and Witnesses of Crime

##### Introduction.

The Department of Defense is concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may feel anger, confusion, frustration, or fear as a result of your experience and then feel added frustration in the course of the trial. The information in this brochure will explain the criminal justice procedures, and your role as a witness.

In the military, a prosecutor is called the Trial Counsel. The Trial Counsel's office will make every effort to keep you informed of the times and places you may be needed. However, it is not unusual for court dates to change several times before the trial. It is very important to keep the Trial Counsel informed of your current address and telephone number.

##### Preferral of Charges.

Like a civilian criminal "complaint," the referral of charges begins the criminal trial process. Upon referral, you may participate in the case at several points as outlined below.

##### Pretrial Conference.

You will be asked to speak with the Trial Counsel handling the case at least once before you testify. The Trial Counsel will answer any questions you may have at this time, and will tell you what will be expected of you as a witness.

##### Article 32 Hearing.

Serious crimes are dealt with in a "General" court-martial which includes an "Article 32" hearing. Similar to a grand jury hearing, an Article 32 hearing is the preliminary investigation into the charges to determine if reasonable grounds exist to believe the accused committed the crimes charged. In the Article 32 hearing, testimony is given to an Investigating Officer (IO), rather than a judge or jury. You may have to appear at the hearing and testify under oath regarding what you know about the charges. After the Article 32 hearing, the IO recommends whether to "refer" (send) the case to trial. In less serious cases, the preliminary hearing is not required and cases are referred to a Special Court-Martial.

##### Court-Martial.

This is the trial of the accused. It generally has two parts: findings (guilty or not guilty) and sentencing (punishment). In the findings phase the accused has the right to choose whether a Military Judge sitting alone or a panel of "members" (jury) will decide whether the accused is guilty of any offenses.

##### Testimony.

If you testify, you will be placed under oath and asked questions by the Trial Counsel, and, in most cases, cross-examined by the Defense Counsel. Usually, counsel for both sides will have spoken to you prior to testifying so there will be very few surprises. If you have concerns about embarrassing questions that could be asked, tell the Trial Counsel before trial.

##### Pointers When Testifying.

- Dress Appropriately: Be neat. Dress conservatively.
- Tell the Truth: Honesty is the best policy.
- Speak Clearly and Loudly: Everyone in the courtroom must be able to hear what you have to say. No gum chewing.
- Don't Guess or Speculate: If you don't know, say you don't know. Give positive, definite answers when you remember positively.
- Be Courteous: Answer politely and address the judge as "Your honor."
- Don't Lose Your Temper: Stay calm.

##### Closing Argument.

After all evidence is received by the court, each side makes a closing argument. After argument, the judge or members will adjourn to deliberate on the issue of guilt or innocence. If there is a finding of "not guilty," the accused is released and the court-martial process ends. If there is a finding of "guilty," the trial immediately goes to the sentencing phase.

DEPARTMENT OF DEFENSE



Dec 23, 94  
1030.2 (Encl 5)

POST-TRIAL  
INFORMATION FOR  
VICTIMS AND WITNESSES  
OF CRIME

Points of Contact:

Service Central Repository

Mike Handler

(202) 234-5678

(Telephone Number)

Confinement Facility

Alan Goodman

(802) 234-5678

(Telephone Number)

Service Clemency and Parole Board

Gerald Powers

(703) 234-5678

(Telephone Number)

Other

Sara Help, State Compensation

(777) 777-7777

(Telephone Number)

For further information on crime issues, contact:

Office for Victims of Crime Resource Center  
1-800-627-6872

Your Rights As A Victim.

As a victim of a crime, you have the following rights under the Victim's Rights and Restitution Act of 1990 (Public Law No. 101-647):

- To be treated with fairness and with respect for your dignity and privacy;
- To be reasonably protected from the accused;
- To be notified of court proceedings;
- To be present at all public court proceedings related to the offenses, unless the court determines that your testimony would be materially affected if you heard other testimony at trial;
- To confer with the attorney for the Government (Trial Counsel) in the case;
- To receive available restitution;
- To receive information about the conviction, sentencing, imprisonment, parole eligibility and release of the accused.

## Post-Trial Information For Victims and Witnesses of Crime

### Introduction.

This brochure details the post-trial process and your rights in that process. Most important is your right to be notified of changes in the confinement status of the offender in your case.

### Location of Confinement Facility.

The Victim and Witness Assistance Program does not end with the completion of the court-martial. If the accused is convicted of any offense, the court-martial will sentence the accused. If the sentence includes confinement, the accused, now called "inmate", is usually taken immediately to jail. If there is a confinement facility at the installation where the trial was held, the inmate will be held there temporarily.

Depending on the security level of the inmate, he/she may be assigned to various work details around the installation. If the inmate's period of confinement is 3 months or less, and there are adequate facilities on the installation, the inmate may serve the entire sentence at the installation.

If there is no confinement facility at the installation, the facility is not adequate to house the inmate, or the sentence is in excess of 3 months, he/she will be taken to a regional confinement facility. The inmate

may later be transferred to other facilities available, based on length of sentence, programs and security levels. You will be notified of these changes if you fill out a form called DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status."

### Convening Authority Action.

The other parts of the sentence (e.g., forfeitures of pay, reduction in rank) will not be effective until the "convening authority", usually a senior officer, takes "action" on it, generally within 6 to 9 months. The convening authority may disapprove the findings, disapprove or reduce any part of the sentence, or approve everything except a punitive discharge. The convening authority cannot increase any part of the sentence. You have the right to submit a statement to the convening authority on how you feel about the inmate receiving clemency. You can ask the Trial Counsel about this right.

### Clemency and Parole Consideration.

Military inmates are eligible for parole consideration when they have completed 1/3 of their confinement, and every year thereafter. You may make a statement to the Clemency and Parole Board on how the crime affected you. The statement may be on audio or video tape or in writing and may be sent to the Service Clemency and Parole Board at the address on the back of this page. A personal appearance before the Board may also be permitted.

### Notification Rights.

You have the right to be notified in writing of the following changes in the inmate's status: transfer to another facility, parole, escape, release from confinement, or death while in confinement. If the inmate is released on temporary home leave (for example, to visit a dying parent), the confinement facility will make every effort to notify you in advance. It is very important that you keep the confinement facility informed of your current address and telephone number.

### How To Exercise Your Rights.

If you want to exercise these rights, and be notified of the dates of any clemency and parole hearings, and changes in the inmate's status, you must fill out DD Form 2704, "Victim/ Witness Certification and Election Concerning Inmate Status." You MUST notify the Service Central Repository of all address and telephone number changes if you want to receive notices. This information will be kept confidential.

### Points of Contact.

From now on, your point of contact will be the confinement facility or the Service Central Repository listed on the back of this page. Please call if you have any questions.

### VICTIM/WITNESS CERTIFICATION AND ELECTION CONCERNING INMATE STATUS

*(This form is exempt from Freedom of Information Act release.)*

#### PRIVACY ACT STATEMENT

**AUTHORITY:** 42 U.S.C. 10606 et sec., Victim's Rights and Restitution Act of 1990; 18 U.S.C. 1501 et sec., Victim and Witness Protection Act of 1982.

**PRINCIPAL PURPOSES:** To inform victims and witnesses of their post-trial rights; to determine whether the victim or witness of a crime elects to be notified of changes in the confinement status of a convicted criminal offender; and to record the election by the victim or witness.

**ROUTINE USES:** None.

**DISCLOSURE:** Voluntary; however, failure to provide identifying information will prevent the corrections facility from notifying victim or witness of changes in a criminal offender's status.

#### SECTION I - ADMINISTRATIVE INFORMATION

*(Incident Number and Organizational Identifier are obtained from DD Form 1569)*

Installation Luke AFB, AZ Incident Number 121212121212 Organizational Identifier (ORI) 999999999

#### SECTION II - REPRESENTATIVE INFORMATION

*(Complete this section only if there are no victims or witnesses who are entitled to notification under the Victim's Rights and Restitution Act of 1990, and DoD Instruction 1030.2.)*

As representative for the Government in the court-martial case of United States v. John Q. Perpetrator  
*(Name of court-martial case)*

convened by self-explanatory  
*(Court-martial convening order number, date, and issuing command)*

I certify that this case does not involve a victim or witness entitled to receive information about the confinement status of the defendant as required by the Victim's Rights and Restitution Act of 1990 (Public Law 101-647; 104 Stat. 4820).

19950106 Case Prosecutor  
*(Date)* *(Signature, grade, and title of person certifying)*  
Case Prosecutor, Capt, USAF, Chief of Military Justice

#### SECTION III - NOTIFICATION STATEMENT

*(Complete this section when there are victims or witnesses entitled to notification.)*

I certify that on this date I personally notified the victim(s) and witness(es) in the court-martial case of United States v.

John Q. Perpetrator, convened by self-explanatory  
*(Name of court-martial case)* *(Court-martial convening order number, date, and issuing command)*

whose sentence included confinement, of their right under the Victim's Rights and Restitution Act of 1990 (Public Law 101-647, 104 Stat. 4820), to receive information about the status of the inmate, to include length of sentence, anticipated earliest release date, likely place of confinement, the possibility of transfer, and the right to receive notification of a new place of confinement. I advised of the possibility of parole or clemency with an explanation of these terms. Additionally, I advised of the right to prior notification of the inmate's parole hearings, release from confinement, escape and death. Finally, I advised that to receive notification of the inmate's transfer, parole hearings, and release from confinement, the victim or witness must provide the information required in Section IV of this form.

19950106 Case Prosecutor  
*(Date)* *(Signature, grade, and title of person providing notification)*  
Case Prosecutor, Capt, USAF, Chief of Military Justice

**SECTION IV - ELECTION TO BE NOTIFIED**

The victim(s) and witness(es) listed below have elected the right to receive information about changes in the status of the inmate by initialing the "Yes" block. If the inmate is transferred, they understand that they will be notified of the address of the new confinement facility. They also understand that if they move or their telephone number changes, they must notify the confinement facility of the new address or telephone numbers in order to be notified.

LIST ALL VICTIMS AND WITNESSES INVOLVED IN THE CASE. (Indicate whether a victim or witness by entering "V" or "W" in the appropriate column. Those who elect to be notified of inmate status changes should initial in the "Yes" column; otherwise initial the "No" column.)

NAME <i>(Last, First, Middle Initial)</i>	ADDRESS <i>(Street, Apartment No., City, State, ZIP Code)</i>	TELEPHONE NUMBER <i>(Include Area Code)</i>	V OR W	NOTIFY	
				YES	NO
Johnson, Mary A.	1234 Main St., Branson, IA 12345-6789	W (123) 456-7890 H (123) 456-1234	V	MAJ	

**SECTION V - SUBSEQUENT CHANGE OF ELECTIONS**

I have advised all victims and witnesses that if they reconsider and later elect to terminate or to receive the notifications described above, they must contact the Military Service Central Repository at the address listed below.

19950106

*(Date)*

*Case Prosecutor*  
CASE PROSECUTOR, CAPT, USAF, Chief, Military Justice

*(Signature, grade, and title of person providing notification)*

DISTRIBUTION *(Addresses: include 9-digit ZIP Code and telephone number.)*

MILITARY SERVICE CENTRAL REPOSITORY self-explanatory	LOCAL CONFINEMENT FACILITY self-explanatory
LAW ENFORCEMENT/SPECIAL INVESTIGATION self-explanatory	VICTIM/WITNESS <i>(Individual will receive a copy with all other victim/witness addresses blacked out.)</i>  Mary A. Johnson 1234 Main St. Branson, IA 12345-6789

**VICTIM/WITNESS NOTIFICATION OF INMATE STATUS**

*(This form is exempt from Freedom of Information Act release.)*

**EXPLANATION:** This form is being used to give basic information on changes in an inmate's status to victims and witnesses who elected, on DD Form 2704, to be notified. The confinement facility holding the inmate must promptly notify victims and witnesses of initial entry into confinement and of confinee status changes in accordance with DoD Instruction 1030.2.

**SECTION I - DISTRIBUTION**

<b>1. TO: (Victim or Witness)</b>			<b>2. FROM: (Victim/Witness Assistance Coordinator at Confinement Facility)</b>		
a. NAME (Last, First, Middle Initial) Johnson, Mary A.			a. NAME (Last, First, Middle Initial) Smith, Lynda D.		
b. STREET ADDRESS (Include apartment no.) self-explanatory			b. STREET ADDRESS self-explanatory		
c. CITY	d. STATE	e. ZIP CODE	c. CITY	d. STATE	e. ZIP CODE
f. TELEPHONE NUMBER (Include area code)			f. TELEPHONE NUMBER (Include area code)		

**SECTION II - INMATE STATUS**

<b>3. INMATE NAME (Last, First, Middle Initial)</b> John Q. Perpetrator	<b>4. REGISTER NUMBER (assigned by the facility)</b>	<b>5. MINIMUM RELEASE DATE ON/ABOUT (YYYYMMDD)</b> 19970601	<b>6. MAXIMUM RELEASE DATE (YYYYMMDD)</b> 19981215
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**7. ADDRESS OF SERVICE CLEMENCY AND PAROLE BOARD**

a. STREET self-explanatory	b. CITY	c. STATE	d. ZIP CODE
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**NOTE 1:** Clemency Boards will meet annually from the date of the initial board until the inmate is released. Clemency Boards will be held in conjunction with Parole Boards when the inmate becomes eligible for parole after serving one third of the sentence.

**NOTE 2:** You may submit documentation to Clemency and Parole Boards when the inmate is scheduled to appear. If you would like to submit a Victim Impact Statement to the Board, please send it to the address above approximately two weeks prior to the scheduled board meeting. Your statement may be submitted in the form of a letter, or audio or video cassette. A personal appearance may also be permitted.

**SECTION III - RELEASE ELIGIBILITY**

**8. RESTORATION AND CLEMENCY ELIGIBILITY**

a. INMATE IS INITIALLY ELIGIBLE TO BE CONSIDERED FOR RESTORATION AND CLEMENCY ON (YYYYMMDD)	_____
b. INMATE IS SCHEDULED TO MEET A SERVICE CLEMENCY AND PAROLE BOARD FOR RESTORATION AND CLEMENCY ON (YYYYMMDD)	_____

**9. PAROLE ELIGIBILITY**

<input type="checkbox"/> a. INMATE IS INITIALLY ELIGIBLE FOR RELEASE ON PAROLE ON (YYYYMMDD)	_____
<input type="checkbox"/> b. INMATE IS SCHEDULED TO MEET A SERVICE CLEMENCY AND PAROLE BOARD FOR PAROLE ON (YYYYMMDD)	_____

**SECTION IV - CHANGE IN INMATE STATUS**

**10. CLEMENCY/PAROLE APPROVAL**

<input type="checkbox"/> a. INMATE WAS APPROVED FOR <input type="checkbox"/> CLEMENCY <input type="checkbox"/> PAROLE ON (YYYYMMDD)	_____	
AT (Location)	b. PAROLE OFFICER'S NAME (Last, First, Middle Initial)	TELEPHONE NUMBER (Incl. area code)
<input type="checkbox"/> c. INMATE'S SENTENCE HAS BEEN CHANGED AS FOLLOWS:		

**11. RELEASE**

<input type="checkbox"/> a. INMATE IS BEING RELEASED ON (YYYYMMDD)	_____	c. PLANNED RELEASE DESTINATION CITY	STATE
<input type="checkbox"/> b. INMATE'S RELEASE IS UNDER NO COMMUNITY SUPERVISION.			

**12. INMATE IS DECEASED (Date of death)**

<input type="checkbox"/> 13. INMATE ESCAPED	b. DESTINATION (if known)	c. DATE, TIME, AND PLACE OF APPREHENSION (if apprehended)	d. PLACE OF RECONFINEMENT
a. DATE AND TIME OF ESCAPE			

**14. INMATE WAS TRANSFERRED TO ANOTHER CORRECTIONS FACILITY ON (YYYYMMDD)**

a. STREET ADDRESS	b. CITY	c. STATE	d. ZIP CODE
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**15. OTHER**

<input type="checkbox"/> a. WORK RELEASE PROGRAM BEGAN ON (YYYYMMDD)	_____	<b>16. WE HAVE CANCELLED YOUR REQUEST TO BE NOTIFIED OF THIS INMATE'S RELEASE DUE TO:</b>
<input checked="" type="checkbox"/> b. RELEASE ON TEMPORARY HOME PAROLE FROM (YYYYMMDD) 19950125 TO (YYYYMMDD) 19950130	_____	
c. (Specify)		
		a. YOUR REQUEST
		b. OTHER (Specify)

**SECTION V - VICTIM/WITNESS ASSISTANCE COORDINATOR**

<b>17.a. NAME (Last, First, Middle Initial)</b> Smith, Lynda D.	<b>b. RANK</b> MSgt	<b>c. SIGNATURE</b> <i>Lynda D. Smith</i>	<b>d. DATE SIGNED</b> 19950106
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## ANNUAL REPORT ON VICTIM AND WITNESS ASSISTANCE

REPORT CONTROL  
SYMBOL

This report summarizes delivery of services to victims and witnesses as prescribed by the Victim and Witness Protection Act of 1982 (18 USC 1512) and the Victim's Rights and Restitution Act of 1990 (42 USC 10601-10607). It is submitted annually in accordance with DoD Instruction 1030.2.

## 1. REPORTING OFFICE

Component Responsible Office

## 2. REPORTING PERIOD

a. FROM

January 1, 1996

b. TO

December 31, 1997

## 3. DURING THE REPORTING PERIOD, OUR LAW ENFORCEMENT, SPECIAL INVESTIGATION, TRIAL COUNSEL, AND RELATED OFFICES ASSISTED:

## a. UPON INITIAL CONTACT:

11,600 crime victims and 12,300 witnesses were informed of their rights to assistance (DD Form 2701).

## b. UPON REFERRAL TO COURT-MARTIAL:

9,450 crime victims were informed of their consultation rights in courts-martial (DD Form 2702).

## c. UPON SENTENCING TO CONFINEMENT:

6,342 crime victims and 8,298 witnesses were informed of their right to be notified of changes in the confinee's status in prison (i.e., escape, parole, death) (DD Form 2703).

## d. ONCE INFORMED OF THEIR RIGHT TO BE NOTIFIED OF CHANGES IN THE CONFINEE'S STATUS:

4,432 crime victims and 6,324 witnesses, using the DD Form 2704, elected to be notified of confinee status changes.

## 4. DURING THE REPORTING PERIOD:

452 confinee status changes resulted in 575 notification letters (DD Form 2705) being sent from our confinement facilities.

5. AS OF DECEMBER 31, 1997

Our confinement facilities reported the cumulative total of Service confinees for whom they must make victim or witness notifications as follows:

(1) ARMY	(2) NAVY	(3) AIR FORCE	(4) MARINES	(5) COAST GUARD	(6) OTHER
50	50	50	50	5	5
DOD COMPONENT RESPONSIBLE OFFICIAL				c. DATE SIGNED (YYYYMMDD)	
a. NAME (Last, First, Middle Initial)		b. SIGNATURE			
self-explanatory					

## Crisis Intervention

### I. Overview

*With the gift of listening comes the gift of healing, because listening to your brothers or sisters until they have said the last words in their hearts is healing and consoling. Someone has said that it is possible "to listen a person's soul into existence." I like that.*

—Catherine de Hueck Doherty

Natural caregivers have known for centuries the value of listening with great care and little judgment to a person's sorrow and pain. Though some people have a natural gift for providing that kind of help, most people need some assistance in learning the basics of crisis intervention—it is, to a degree, "contra-instinctual"—and everyone can, with study, improve their crisis intervention skills.

In the aftermath of a catastrophe, most victims must deal not only with the physical and emotional shockwaves of the event but also, in short order, with the sense of helplessness, powerlessness, and a loss of control. These and the other dimensions of "crisis" are described more fully in the earlier "trauma of victimization" chapter.

For many victims, the physical and emotional reactions which describe crisis are not severe, and recede after a few hours or days. For others, the crisis is put on hold while they mobilize their survival skills, and only days, even years, later, are they slapped with a sense of the enormity of the event, now vividly remembered. Even victims who do not develop the symptoms of long-term stress reactions face the risk that certain "triggers" will reproduce the old feelings of panic, helplessness, anger, and the like.

"Crisis intervention" is obviously a humane effort to reduce the severity of a victim's crisis, to help the victim win as much mastery over the crisis experience as possible. To understand the potential benefits of crisis intervention, it is worth emphasizing that these are a battery of skills that victim advocates should possess—but so should others whose professional work brings them into contact with victims in crisis.

A common response in the shock of the moment is for the victim to retreat into a childlike state, and, when the immediate danger is passed, to turn to someone nearby who is perceived as an authority figure for help—a law enforcement officer, teacher, nurse, a friend, anyone who offers a sense of "parental" comfort. Anyone whose job constantly puts them in that role discovers how "accessible" the victim is at that moment. The helper is now invested with extraordinary influence in the life of the victim in crisis. In these circumstances, the helper is a crisis intervenor—perhaps a gifted one, perhaps one whose talents have been forged by experience, or far more likely, a conscientious professional with no training or skills in how to interact with people in crisis, to the detriment of both the victim and the professional.

If it is important for those in the emergency services and criminal justice professions to use crisis intervention techniques in their short encounters with victims, it is all the more essential for victim advocates and counselors to master the ideas and skills that help restore to victims a sense of control over their lives.

# NATIONAL SYMPOSIUM ON FEDERAL CRIME VICTIMS

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As is evident in our knowledge of the psychological trauma of crime victimization, "crisis" encompasses a number of intense, tumultuous emotions; it can be a continuing condition, or alternatively flare and recede; any stressful, post-crime event, such as going to a battered women's shelter, or to a lineup, or to a trial, may put victims back into crisis. While there are no predictors about who will experience crisis, or when the onset will be, or how severe it will be in intensity or duration, a working presumption for most crisis intervenors is that the sooner the service is offered, the better. Indeed, there is a conviction among many practitioners that on-scene intervention, when the victim is in the early stages of distress, may prove to prevent or greatly reduce the crisis symptoms that might otherwise afflict the victim.

The following covers the basic techniques of crisis intervention and some hints for helping victims and survivors in the aftermath of trauma.

## II. Techniques

### A. "Safety and Security"

1. The first concern of any crisis intervenor should be for the physical safety of the victim.

Until it is clear that the victim is not physically in danger or in need of emergency medical aid, other issues should be put aside. This is not always immediately obvious. Victims who are in physical shock may be unaware of the injuries they have already sustained or the dangers they still face.

For the crisis intervenor who is responding to a telephone crisis call, the question should be posed immediately, "Are you safe now?" Intervenors who are doing on-scene or face-to-face intervention should ask victims if they are physically harmed. That question alone may cause the victim to become aware of a previously undiscovered injury.

2. A parallel concern should be whether the victim *feels* safe. The victim may not feel safe in the following circumstances:

- The victim can see and hear the assailant being interviewed by law enforcement officers.
- The victim is being interviewed in the same area where an attack took place.
- The victim is not given time to replace torn clothes.
- The victim is cold and uncomfortable.
- The assailant has not been apprehended and he has threatened to return.

Any of these may make the victim feel unsafe even if there are law enforcement officers present. In the aftermath of the Edmond, Oklahoma, post office mass murders in 1986, one of the survivors of the attack said that he would not feel safe until the assailant, Patrick Sherrill, whose final killing was of himself, was physically in his grave.

3. A priority for some victims and survivors is the safety of others as well. If a couple has been robbed in a street crime, each may be more worried for the other person than himself or herself. Parents are often more concerned about the safety of their children than their own.

## CRISIS INTERVENTION: PHILOSOPHY AND BASIC TECHNIQUES

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4. Survivors of victims of homicide may not focus on safety but rather seek a sense of security through the provision of privacy and nurturing. Their anguish and grief can be made more painful if there are unfamiliar and unwanted witnesses to their sorrow.

They, too, will suffer feelings of helplessness and powerlessness. The shock of the arbitrary death of a loved one is usually not assimilated immediately and survivors may not understand questions or directives given to them. One mother did not realize that she had said yes when she was asked if she wanted to identify the body of her son. When she was taken to the morgue, she became hysterical and distraught because she was not properly prepared.

5. All victims and survivors need to know that their reactions, their comments, and their pain will be kept confidential. If confidentiality is limited by law or policy, those limits should be clearly explained.
6. Security is also promoted when victims and survivors are given opportunities to regain control of events. They cannot undo the crime or the death of loved ones, but there may be opportunities for them to take charge of things that happen in the immediate aftermath.
7. Hints for Helping.

- a. Make sure the victims/survivors feel safe or secure at this point in time.

- Sit down to talk.
- Ask the victims/survivors where they would feel safest when you talk to them, and move to that location.
- If it is true, reassure them with the words "You are safe now."
- Identify yourself and your agency clearly, and explain your standards of confidentiality. You might say, "Our program's standards require me to keep all information that you tell me confidential unless you give your permission to me to release it." If you can't keep all information confidential because you are with a police or prosecutorial agency, then be honest about the limits of confidentiality. You might say, "Our program requires me to report anything you tell me that might help a defendant in this case, but I am not required to report anything else, and I will not do so unless you give me your permission."
- If possible, keep media away from victims/survivors or help them in responding to media questions. If the case involves a sensational crime and there are media representatives approaching the survivors, try to ensure that the victims/survivors understand that they do not have to answer questions unless they want to, and under circumstances of their own choosing; NOVA's Media Code of Ethics may help the advocate and the victim in this situation (see the chapter on the media).
- If they have loved ones about whom they are concerned, try to find out as much information as possible about the safety of the loved ones. For instance, a mother who has been a victim on the way home from work might not be as worried about the victimization as the safety of a child who is home alone awaiting her arrival. See if a colleague can be dispatched to the home to provide care for the child until the mother

## NATIONAL SYMPOSIUM ON FEDERAL CRIME VICTIMS

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- is able to return. Or see if she can identify a relative or neighbor who might assume the caretaking role in her absence.
- If victims are to be interviewed by law enforcement officers or others, try to ensure that they understand questions by asking them to repeat the question back to the interviewer.
  - Provide victims with information that may help to assure them of their safety. For instance, if they have been survivors of a massacre, it may help if they are assured that the gunman is dead, or that he has been apprehended.
  - If they are not safe, keep them informed about the extent of additional threat. For instance, if the gunman is still at large, try to get information about his whereabouts. If possible, find them an alternative location at which to stay for a few hours or a few days. In the aftermath of the serial killings of five co-eds in Gainesville, Florida, the victim/witness program and the community arranged for students to sleep together in dormitory-like conditions in a large auditorium surrounded by guards, all to restore a sense of safety.
  - Give victims permission to express any reactions and respond non-judgmentally. Say: "You have a right to be upset over this tragedy, so don't be afraid to tell me what you are thinking."
- b. Respond to the need for nurturing — but be wary of becoming a "rescuer" on whom the victim becomes dependent. The "rescuer" who ends up months later making decisions for the victim has subverted the primary goal of crisis intervention; that is, to help the victim restore control over his or her life. The following tips suggest appropriate ways in which the intervenor can step in on a temporary basis.
- It is useful to take care of practical things that need to be done but are beyond the victim's ability to accomplish. For example, a victim of a sexual assault may appreciate it if you arrange for a friend to bring her a new set of clothes, after—as with every courtesy—getting permission to do so. In making such offers, don't assume anything. For example, the last person a sexual assault victim may wish to see immediately after a rape is a spouse or partner.
  - Offer to provide child care, help with transportation, make telephone calls, and so forth. Be specific in making such offers so that the victim can simply respond with a "yes" or a "no".
  - An apt analogy for the role of the crisis intervenor at this stage is as follows: when a person breaks his leg, a doctor sets it and puts it in a cast. While it heals, the patient uses crutches to get around, and when the cast is removed, the leg still needs exercise and care to become strong again. When someone survives a violent crime or the death of a loved one, they survive with a fractured heart. The crisis intervenor becomes like the doctor. The initial intervention helps the survivor by protecting that heart as much as possible against further harm. Later, the crisis intervenor provides support, understanding, and a few crutches while the survivor begins the long process of healing a broken heart.

- c. Help survivors to reestablish a sense of control over the small things, then the larger ones, in their lives.
  - While it is important to assist survivors with practical activities, it is also important to allow them to make decisions for themselves and to take an active role in planning their future.
  - The crisis intervenor initially can offer survivors a sense of control by asking them simple questions involving choices that are easily made. For instance, "What name would you like me to use in talking with you?" "Where would you like to sit while we talk?" "Would you like a glass of water?"
  - Often the recovery of a physical object that is important to the survivor helps to reestablish a sense of control. For instance, after an arson burned down much of one family's home, the entire family was strengthened when a law enforcement officer found their cat in the bushes nearby. The family had thought the cat had died in the fire.

### B. "Ventilation and Validation"

1. Ventilation refers to the process of allowing the survivors to "tell their story." While the idea of "telling your story" seems a simple concept, the process is not easy. Victims need to tell their story over and over again. The repetitive process is a way of putting the pieces together and cognitively organizing the event so that it can be integrated into the survivor's life. Their first memory of the event is likely to be narrowly focused on, say, a particular sensory perception or a particular activity that occurred during the event. Victims usually see the criminal attack with tunnel vision. They know intuitively that other things are happening around them, but they may focus on an assailant's knife, their struggle to get away, their first impression of a burglarized room.

As time goes by, memory will reveal other parts of the event. These bits of memory will come back in dreams, intrusive thoughts, and simply during the story-telling process. The victimization story will probably change over time as they learn new things and use the new information to reorganize their memories.

For example, a victim who reported a burglary first told the crisis intervenor that he had heard a noise and he went downstairs to see what was wrong, finding a burglar in his front room. The burglar grabbed something and struck him in the stomach before running out the front door. There was a crash and then everything was silent.

When the man repeated the story the second time, he said that he remembered that it was just a noise, but it sounded like some whispering and rustling. On a later retelling, he remembered that when he came downstairs, he saw a brief flash of light toward the back of the house.

Upon investigation, it was discovered that there had probably been two burglars and one had exited through the kitchen window in the rear of the house.

From a law enforcement perspective, the problem with this process of reconstructing a story is that it sometimes results in inconsistent or contradictory stories, which undermine an investigation or a prosecution. However, from a crisis intervention perspective, it is

perfectly normal for the process of ventilation to reveal a more complete story over time. Realistically, a victim will tell his story over and over again, with or without a crisis intervenor, in order to reconstruct the event, so that the story will often change anyway. The difference is that the crisis intervenor will provide a sounding board for the victim's distress as the review process unfolds.

For victims, the replaying of the story over again helps them get control of the real story. The "real" story is not only the recitation of the event itself, but usually includes the story of various incidents in the immediate aftermath; the story of ongoing traumatic incidents related to the crime; the story of families' or friends' involvement in the event; and so forth. Each of these stories must be integrated into the victim's final mental recording of the event.

2. A part of ventilation is a process of finding words or other ways that will give expression to experiences and reactions. In this aspect, ventilation is often culturally-specific. Some cultures may express their reactions through physical or various artistic forms rather than words. In most of the United States, words are the most comfortable form of expression.

The power found in putting words to feelings and facts is tremendous. There is often a depth of emotion in telling another person that a loved one has died, even in finding the name of the loved one. The power is also illustrated in the release that many victims find when an intervenor responds to their ventilation with a word that expresses what victims feel. For instance, victims may feel intense anger towards an assailant and find the word "anger" insignificant to express that intensity. When an intervenor offers a word like "outrage" or "fury" to describe their feelings, victims often feel a sense of liberation—a sense of permission to feel such intense emotions.

The exact words to describe events and experiences are often vital. For example, Mothers Against Drunk Driving (MADD) is adamant about the importance of calling the collision of a car driven by someone drunk a drunk-driving "crash," not an "accident," to emphasize the criminal nature of the event. Similarly, survivors of the Pan Am 103 terrorist bombing are offended when others call the event a "crash," a term often used to describe a mechanical or human error.

3. Validation is a process through which the crisis intervenor makes it clear that most reactions to horrific events are "normal."
  - a. Validation should be content-specific. Example: rather than saying "I can't imagine how upset you are," it is preferable to say "I can't imagine how upset you are about your son's death in the car crash."
  - b. Care should be taken in the words that are used to validate. For instance, many survivors do not want to hear that their reactions are "normal reactions to an abnormal situation"—a common summation of what crisis and trauma produce—because survivors want to have their experience validated as unique. Telling them that their reactions are "not uncommon" seems to be more effective.
  - c. Where possible, repetition of the actual phrases that the survivors use to describe experiences is useful. Example, if someone says, "I can't sleep at night, I am so afraid

## CRISIS INTERVENTION: PHILOSOPHY AND BASIC TECHNIQUES

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that someone will break in and kill me and my family,” an appropriate response would be, “It’s not unusual for you to be afraid after such a terrifying experience. If you can’t sleep at night, that only shows how afraid you are.”

4. The focus of validation should be that most reactions of anger, fear, frustration, guilt, and grief do not mean that the victim is abnormal, immoral, or a bad person. They reflect a pattern of human distress in reaction to a unique criminal attack.
  - a. While most reactions are normal, there are some people with preexisting mental health problems who have harmful reactions. There are also some who react to personal disasters in a dangerous way—to themselves or others. In the aftermath of crisis, the intervenor should always be alert to any words or other signs of suicidal thoughts or threatening behavior towards specific individuals. If these arise, seek immediate professional help—a mental health professional, a suicide hotline, even a law enforcement agency if there is an imminent threat to someone else.
  - b. While most reactions are normal, most people have not experienced such intense feelings, so they may think they are “going crazy.” Survivors should be reassured that while this crisis has thrown their lives into chaos, they are not, as a consequence, crazy.

### 5. Hints for Helping.

- a. Ask the victim to describe the event.
- b. Ask the victim to describe where they were at the time of the crime, who they were with, and what they saw, heard, touched, said, or did.

These two introductory questions will help the victim focus on the crime in an objective way. It will help the victim impose an order on the event and begin to take control of the story. It may help to ask the victim to recall that day from the beginning, so that the “normal” parts become part of the crisis story.

- c. Ask the victim to describe his or her reactions and responses. As the victim begins the description, remember to validate the reactions and responses. If she says: “I remember turning stone cold when I felt the hand on my back and a tug at my purse,” say, “Some people have called that a ‘frozen fright’ reaction.”
- d. Ask the victim to describe what has happened since the crime, including contact with family members, friends, the criminal justice system, and so on. Responses to this question will help reveal whether the victim has suffered additional indignities as a result of the crime or whether the victim has been treated with dignity and compassion.
- e. Ask the victim to describe other reactions he or she has experienced up to now. Again, validate reactions.
- f. Let the victim talk for as long as you can. If you are running out of time, give the victim at least a fifteen-minute warning, such as, “Mrs. Jones, I really want to hear more about your experience and reactions, but I have to leave in about fifteen minutes. If we don’t finish up this part by then, I want to do that tomorrow, at a time that is good for you. If I don’t hear from you, I’ll give you a call, if that’s okay.”



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g. Don't assume anything—even the apparent pattern of the crisis reaction is suspect. So, for example, the victim's controlled calm of the moment may yield to tears in a few minutes, or a few weeks. Indeed, if the victim is experiencing crisis, it is safe to bet that his or her reactions will take new form over time.

h. Don't say things like:

"I understand."

"It sounds like . . ."

"I'm glad you can share those feelings."

"You're lucky that. . ."

"It'll take some time but you'll get over it."

"I can imagine how you feel."

"Don't worry, it's going to be all right."

"Try to be strong for your children."

"Calm down and try to relax."

Do say things like:

"You are safe now (if true)."

"I'm glad you're here with me now."

"I'm glad you're talking with me now."

"I am sorry it happened."

"It wasn't your fault (if there was no attributable blame to the victim)."

"Your reaction is not an uncommon response to such a terrible thing."

"It must have been really upsetting to see [hear, feel, smell, touch] that."

"I can't imagine how terrible you are feeling."

"You are not going crazy."

"Things may never be the same, but they can get better."

To improve communication with the victim, avoid words like:

"Feelings" — although this chapter is concerned with victims' feelings, in practice it is better to stick with the word "reactions" to describe "feelings." Many people are uncomfortable with being asked to talk about their feelings or emotions.

"Share" or "sharing"—ask people to tell you about their experiences. Don't ask them to "share" those experiences or thank them for "sharing". No one can literally share another person's experience, even if they have suffered through the same event. Many people resent the presumption implicit in this term, or the "social work" connotation it carries.

"Client" or "Victim" or "Survivor," when talking to or about a person for whom you are providing crisis intervention. Use the victim's preferred name.

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“Incident” or “Event,” when referring to the crime or the criminal attack. While such words may be used in other settings, they are inappropriate in talking with the person who has survived such an “event”.

“Alleged,” when referring to a victim. Let the lawyers speak of alleged victims and offenders if they need to. Victim advocates should assume that people who describe themselves that way are what they say—victims of crime.

### C. “Prediction and Preparation”

1. One of the potent needs that most victims have is for information about the crime and what will happen next in their lives. Remember, their lives have typically been thrown into chaos and they feel out of control. A way to regain control is to know what has happened and what will happen—when, where, how.
2. The information that is most important to victims is practical information. The following are examples. Note that some topics may raise scary possibilities that the victim has not even considered; the intervenor may tactfully touch on such issues or defer them. However, never duck any unpleasant surprise if there is reason to believe that the victim will find out about it soon.
  - a. Will the victim have to relocate? Many burglary victims need to move temporarily because their home is no longer secure. If relocation is necessary or recommended, what are the victim’s options?
  - b. Does the victim have adequate financial resources to pay for any immediate needs caused by the crime? The robbery victim may not have money to pay for food or rent. The rape victim may not have money for a forensic exam or medical treatment. Even if a compensation program may reimburse a victim at a later date, the need for immediate money is sometimes overwhelming.
  - c. What legal issues confront the victim? Will the case be processed in the criminal justice system? Will there be an investigation? What are the chances that there will be an arrest—and then prosecution, trial, conviction, and sentencing? Does the victim have civil litigation options? Might it be feasible for the victim to sue the offender or a third party who might be held responsible for factors leading to the attack? Note that honest answers and estimates are essential; to the victim of a “cold” burglary with no immediate suspects, the bad news is that fewer than one such case in fifty results in an arrest in most jurisdictions—and giving a rosier picture will undermine your future credibility. By the same token, there may be many questions that arise which are beyond the intervenor’s expertise; note them, and help the victim get expert answers.
  - d. What immediate medical concerns face the victim? An injured victim may need information about the extent of those injuries. A sexual assault victim may need information to make informed decisions on testing for pregnancy or sexually-transmitted diseases, including HIV. The survivor of a victim of homicide or catastrophic injury may need detailed information about the cause of death or extent of injuries.
  - e. What will be expected of the survivors of a homicide victim in the immediate future? Will they be asked to identify the body? If so, what is the condition of the body? Is

- there a need to address immediately funeral considerations? (Some religions call for immediate burial.) Do the survivors know their loved one's body will be given an autopsy?
- f. What does the victim need to know about the media? As indicated above, if the case is sensational or has a "newsworthy" facet to it, it is likely that there will be media coverage. Does the victim know his or her rights? Is the victim prepared for a full media intrusion? Has the victim been warned that what appears in the media may not have any relation to the truth as he or she has experienced it?
3. The second priority is for information on possible or likely emotional reactions that the victims might face over the next day or two, and over the next six months or so—emphasizing that there is no particular timetable when victims can expect to experience crisis reactions, or which of the intense emotions may surface. In many ways, this review will become as important as anything else they learn. In the initial stages of dealing with the crime, practical issues are their priority. Some of the emotional concerns that should be outlined, however, are the following:
- Immediate physical and mental reactions to crisis. These reactions may include inability to sleep, lack of appetite, anxiety, numbness, estrangement from the world, a sense of isolation, anger, fear, frustration, grief, and an inability to concentrate.
  - Long-term physical and mental reactions. These reactions may include intrusive thoughts, nightmares, terror attacks, continued sense of isolation, inability to communicate with others, sleep disturbances, depression, inability to feel emotion, disturbance of sexual activity, startle reactions, irritability, lack of concentration, and so forth.
  - Reactions of significant others. While some friends or family members serve as the most important source of emotional support for victims, many cause as much harm as good. Three common reactions that may cause victims distress are: overprotectiveness; excessive anger and blame directed toward the victim; and an unwillingness to talk about or listen to stories of the crime.
  - Victims should expect that everyday events may trigger crisis reactions similar to the ones they suffered when the crime occurred. Thus, the birthday of a son who was murdered may trigger overwhelming feelings of grief and anger about the murder. A sunset of a particular shade and color may trigger a panic attack in a victim who has been robbed during such a sunset. The smell of alcohol on the breath of a young man may trigger an outburst of rage in a young woman who had been raped by a man who had been drinking.
4. In addition to needing predictable information, victims need assistance in preparing for ways in which they can deal with the practical and emotional future. The following are some hints for helping.
- Take one day at a time. Suggest that the victim plan each day's activities around needed practical tasks. Help the victim list the tasks that need to be done and set a goal for accomplishing a certain number each day. Victims who have been severely traumatized may want to check in with you after each day to report their progress and to receive positive feedback on any successes.

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- b. Problem-solving. Show the victim how to use problem-solving techniques to address the overwhelming problems that he might face. Suggest that the victim list the three most important problems confronting him for the next day. After he makes his list, have him analyze whether all three really need to be done in the next twenty-four hours. If he thinks so, ask him to sort the list in priority order. Take the first problem he has listed and ask him to think about all the possible ways he might deal with the problem. After he has discussed such ideas, ask him to choose the option that he thinks is most feasible.

*Example:* Jim is a robbery victim. The robber stole his wallet and the contents of his pockets, which included all of his cash, his bank card, his driver's license, his car and apartment keys, and a pocket watch. Jim is panicky because it's 9 at night and he doesn't have any money and doesn't know how to get home. Even if he is able to get there, he doesn't have keys to get into his apartment or to drive to work in the morning.

You ask Jim to list his three biggest problems. He says: getting home, getting in his apartment, and getting to work in the morning, in that priority order. You ask him to think of all the possible ways he might be able to get home. After some thought, he decides that he can borrow a quarter from you and call a friend to come get him. He then realizes that his friend would probably let him stay at his house overnight, if needed. He also realizes, as he is thinking, that he might be able to call his landlord from his friend's house and arrange to get into his apartment. As he begins to think calmly and carefully about the problem he remembers he has an extra set of keys to both his apartment and his car at home . . . and so the problem-solving begins and may continue.

- c. Talk and write about the event. Suggest to victims that they use audiotapes or write a journal to tell their unfolding stories. Even if no one else sees or hears these stories, it is a way of expressing oneself and a way of processing thoughts.
- d. Plan time for memories and memorials. It can be predicted that certain things will be trigger events for future crisis reactions. Urge victims to try to think through what those trigger events might be and to allow themselves time to deal with those reactions. For example, a woman who had been sexually assaulted on October 14 routinely took that day off from work to do something nice for herself and to think about her pain.
- e. Encourage victims to identify a friend or family member on whom they can rely for support during times when they must confront practical problems. If they are able to name that person, suggest that they call and explain their need for support and help. If this is done in advance, it makes it easier to request certain help when the time comes.
- f. Good nutrition, adequate sleep, and moderate exercise can significantly help victims survive times of crisis. That underestimated triad is, in fact, the basis for virtually all stress reduction programs. Help victims set up their own regular routine of health. At first it may be difficult, but if they keep trying they will readily realize some benefits.

### III. Conclusion

Crisis intervention is more than a shoulder to cry on, a hand to hold, or an ear with which to listen. It encompasses all of those attributes in a crisis intervenor and more. It involves skill and knowledge, combined in a simple but powerful way. Providing victims with a sense of safety and security; allowing them a chance for ventilation and validation; and giving them accurate prediction and preparation for the future summarizes that combination. The strength of the crisis intervention process can be seen in the tributes that thousands of victims have given their advocates who were at their sides in their times of need. It can be seen in the fact that most of those victims do not need long-term counseling or mental health therapy.

Charles Dickens said, "No one is useless in this world who lightens the burdens of others." It is hoped that this chapter will help crisis intervenors lighten the burdens of the others who are victims of crime.

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## CRISIS INTERVENTION: ABC MODEL

### **A. ACHIEVE CONTACT**

1. Introduce self and role
2. Ask permission
3. Create a "bond"
4. Must happen before "B"

### **B. BOIL DOWN THE PROBLEM**

1. Ask about physical injuries if appropriate
2. Use skills i.e. reflect, paraphrase, active listen
3. Focus on now
4. "What are you most concerned about?"
5. Summarize, check it out
6. Most time spent on "B"

### **C. COPING WITH THE PROBLEM**

1. Client has the solutions
2. Reinforce ideas, give strokes, empower
3. How can I be helpful? Give resources if requested
4. "Yes, but" - Go back to "B"

7/95

WHAT IS A CRISIS?

WHAT DO YOU SEE?

### **PHYSICAL REACTIONS**

Shock, numbness, frozen fright, fight or flight, adrenaline, heart rate, hyperventilation, body relieves self, slow motion, senses ...

### **EMOTIONAL REACTIONS** (heightened by the physical reactions)

Shock, disbelief, denial, fear, terror, confusion, frustration, out of control, guilt, grief, loss of trust, faith, identity, future; selfish, unpredictable



## SEVERITY OF REACTIONS

- A. Intensity
- B. Duration
- C. Pre-existing psychopathology
- D. Suddenness
- E. Acceptability
- F. Proximity

## PTSD (Post Traumatic Stress Disorder)

- A. Exposure to a traumatic incident (experienced, witnessed, heard of)
- B. Duration of at least 1 month, onset can be months later
- C. Indicators - fear of death, pre-existing psychopathology, disassociation

### 1/4 Re-experiencing the incident

- a. intrusive thoughts
- b. flashbacks, hallucinations, repetitive play (children)
- c. distressing dreams
- d. intense psychological distress

### 3/7 Avoidance of stimuli

- a. thoughts, feelings associated
- b. activities
- c. amnesia
- d. decreased interest in significant activities
- e. estrangement/detachment
- f. reduced affect
- g. foreshortened future

### 2/5 Physical Arousal

- a. sleep disturbances
- b. lack of concentration
- c. startle reaction (hypervigilance)
- d. irritability
- e. physiological reactions

## LONG TERM CRISIS REACTIONS

- 1. Not all victims/survivors have
- 2. Many experience over long time periods
- 3. Usually trigger events set off (sensorial, CJS, anniversaries, media etc.)

## CRISIS WORKER REACTIONS

### **Countertransference**

\*contributing factors

1. Recent trauma in caregiver's life
2. Similarities - victim and caregiver
3. Physical/emotional fatigue

\*\*secondary victimization, vicarious victimization, compassion fatigue

### **Constructivist Self-Development Theory**

1. Cognitive assumptions altered
  - a. trust vs distrust
  - b. safe vs fear
  - c. control vs no control
  - d. freedom vs restrictions
  - e. respect vs evil, cruel
  - f. intimacy vs estrangement
2. Contributing factors
  - a. constant exposure to arbitrary disaster
  - b. constant exposure to improbable events
  - c. lack of positive alternative exposure
  - d. lack of caring, supportive resources

### WHAT HELPS PEOPLE IN CRISIS

- a. water - cool not iced
- b. exercise
- c. talking
- d. tears
- e. accurate information
- f. choices (small not big)
- g. the colors you wear
- h. group debriefings
- i. massage/touch
- j. anchoring
- k. expand the event
- l. acu-touch

### COMMUNICATION SKILLS

### THREE MOST HELPFUL CHARACTERISTICS FOR A HELPER TO PORTRAY

1. Warmth  
(56% tone, 37% body language, 7% words)
2. Empathy
3. Respect

## SPECIFIC SKILLS

- A. Active listening - you can listen faster than someone talks, if you commit to listen then put all else aside and really listen
  - B. Mirroring - use to relax upset, uptight person
  - C. Questions - person asking questions is in control
    - 1. open (lots of information)
    - 2. closed (specific information)
    - 3. who, what, when, where but NOT why
  - D. Parroting
    - 1. choose one word
    - 2. purpose - more information
  - E. Reflecting
    - 1. diffuses
    - 2. gets at emotions
  - F. Paraphrasing
    - 1. clarifies
    - 2. forces you to listen
    - 3. lets them know you're listening
    - 4. lets them hear what they said
  - G. Silence
- 8/96

## LISTENING

- 1. STOP TALKING - you can't listen while you are talking
- 2. EMPATHIZE WITH THE OTHER PERSON - try to put yourself in his/her place so you can see what the person is trying to get at
- 3. ASK QUESTIONS - when you don't understand and need further clarification
- 4. DON'T GIVE UP TOO SOON - don't interrupt the other person; give them time to say what they have to say
- 5. CONCENTRATE ON WHAT THEY ARE SAYING - actively focus your attention on their words, ideas and feelings related to the subject
- 6. LOOK AT THE OTHER PERSON - face, mouth, eyes and hands will all communicate
- 7. SMILE AND NOD APPROPRIATELY - but don't overdo it

8. LEAVE YOUR EMOTIONS BEHIND - try to push your worries, fears, issues aside
9. CONTROL YOUR ANGER - try not to get angry at what the person is saying; your anger may prevent you from understanding words or meanings
10. GET RID OF DISTRACTIONS - put down any paper, pencils, etc. you may have in your hands
11. GET THE MAIN POINTS - concentrate on the main ideas and not the illustrative material
12. SHARE RESPONSIBILITY FOR COMMUNICATION - only part of the responsibility rests with the speaker. You as the listener have an important part. If you don't understand, get clarification
13. REACT TO IDEAS, NOT TO THE PERSON - don't let your reactions to the person influence your interpretation of what is said. Ideas may be good even if you don't like the person.
14. DON'T ARGUE MENTALLY - when you are trying to understand the other person, it is a handicap to argue mentally while they are speaking. This sets up a barrier between you and the speaker.
15. USE THE DIFFERENCE IN RATE - you can listen faster than someone can talk so use this rate difference to your advantage. Speech rate is about 100 to 150 words a minute; thinking is about 250 to 500 words per minute.
16. LISTEN FOR WHAT IS NOT SAID - sometimes you can learn just as much by determining what was left out as you can by listening to what was said.
17. LISTEN TO HOW SOMETHING WAS SAID- a person's attitudes and emotional reactions may be more important than what is said in so many words.
18. DON'T ANTAGONIZE THE SPEAKER - you may cause the other person to conceal ideas, emotions and attitudes by antagonizing in any number of ways: arguing, criticizing, taking notes, not taking notes, asking questions, not asking questions etc. Be aware of the effect you are having on the other person. Adapt.
19. LISTEN FOR PERSONALITY - As they talk you can begin to find out likes and dislikes, motivations, value systems, what makes them tick.
20. AVOID JUMPING TO ASSUMPTIONS - If you make an assumption, be sure to check it out for accuracy. Do not act as if your assumption is true.
21. AVOID CLASSIFYING THE SPEAKER - it has some value, but beware! Too frequently we classify a person as one type and then try to fit everything said into what makes sense coming from that type of person.
22. AVOID HASTY JUDGEMENT - wait until all the facts are in before making any judgement.

23. RECOGNIZE YOUR OWN PREJUDICE - try to be aware of your own feeling toward the speaker, the subject, the occasion etc., and allow for these pre-judgements.

### ATTENTIVE SKILLS

- A. Pay attention to your present experience (perception - sensing).
- B. Look and really see; listen and really hear.
- C. Tell about experiences (express perceptions and sensing).
- D. Risk saying positive things (love, affection etc.) as well as negative things (anger, criticism etc.)
- E. Stop intellectualizing to avoid feeling or experiencing.
- F. Avoid asking questions unless sincerely seeking information (most questions are for manipulating people).
- G. Don't ask "why"; ask "what". ("Why" puts people on the defensive - "what" directs them to their experiences).
- H. Don't gossip about someone who is present - speak directly to that person.
- I. Notice to whom you are speaking (you may be "broadcasting" without really speaking to anyone).
- J. Accept responsibility for your own behavior.
- K. Don't lay your thing on anyone else (don't interpret things for others).
- L. Don't be "helpful" by trying to do something for somebody that the person needs to do for him/herself.
- M. Allow another person to "cop-out" if they really want to (don't push anyone to do anything they don't want to do).
- N. Respect confidences when requested.

# **MANDATORY VICTIMS RESTITUTION ACT**

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## **I. Restitution Background**

The Victim and Witness Protection Act, passed in 1982, was the first general federal victim restitution statute. Since then, there have been minor amendments to that law, but it was not until 1994, in the Violence Against Women Act, that Congress identified certain types of crimes subject to mandatory restitution, i.e., sexual abuse, sexual exploitation and other abuse of children, domestic violence and telemarketing.

The Mandatory Victims Restitution Act expands the scope of mandatory restitution. It also provides consolidated procedures for the issuance of restitution orders and enhances the post-conviction enforcement of restitution orders.

## **II. The Mandatory Victims Restitution Act**

On April 24, 1996, the Antiterrorism and Effective Death Penalty Act of 1996 was enacted. Title II of this legislation, the Mandatory Victims Restitution Act ("the Act"), significantly reforms restitution and alters the way that it is enforced.

## **III. Imposition of Restitution**

### **A. Mandatory Restitution**

The Act now requires the court to order full restitution in certain cases. It creates a new 18 U.S.C. § 3663A, which requires the court to enter a restitution order for each defendant, without regard to the defendant's economic situation, who has been convicted or plead guilty to charges of:

- A crime of violence (as defined in 18 U.S.C. § 16);
- An offense against property under title 18, including any offense committed by fraud or deceit; or,
- An offense described in section 1365, relating to tampering with consumer products, 18 U.S.C. § 3663A(c)(1)(A);

**AND,**

- There is an identifiable victim<sup>1</sup> or victims who have suffered a physical injury or pecuniary loss. 18 U.S.C. § 3664(f).

The only exception to mandatory restitution for the above categories is for an offense against property if the court makes a finding that:

- the number of identifiable victims is so large as to make restitution impracticable; or,
- determining complex issues of fact related to the cause or amount of the victims' losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process. 18 U.S.C. § 3663A(c)(3).

Additionally, the four areas of mandatory restitution enacted under the Violence Against Women Act still exist. These are:

- Sexual abuse - 18 U.S.C. § 2248;
- Sexual exploitation and other abuses of children - 18 U.S.C. § 2259;
- Domestic violence - 18 U.S.C. § 2264; and,
- Telemarketing fraud - 18 U.S.C. § 2327.

The procedures for issuing restitution under these sections are now the same as for the general restitution statute and set forth in 18 U.S.C. § 3664.

#### **B. Discretionary Restitution**

The general restitution statute, 18 U.S.C. § 3663, now states that the court "may order" restitution:

- For any title 18 offense not covered by the new mandatory restitution provisions of 18 U.S.C. § 3663A(c);
- For drug offenses<sup>2</sup> under 21 U.S.C. §§ 841, 848(a), 849, 856, 861, and 863, as long as the victim is not a participant;

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<sup>1</sup>The definition of "victim" is expanded by the new law to include those "proximately" harmed by as a result of the commission of the offense. 18 U.S.C. §§ 3663(a)(2) and 3663A(a)(2).

<sup>2</sup>An order of "community restitution" for a drug offense will be based on the amount of the public harm caused by a defendant in accordance with guidelines promulgated by the Sentencing Commission. 18 U.S.C. § 3663(c). To date, no such guidelines have been issued.

- For air piracy offenses (unless they fall within the new mandatory restitution provisions of 18 U.S.C. § 3663A(c)); and,
- In any criminal case to the extent agreed to by the parties in a plea agreement.

In determining whether to award restitution in these cases, the court is required to consider:

- The amount of the loss sustained by each victim as a result of the offense; and,
- The financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant's dependents, and such other factors as the court deems appropriate.

Also, to the extent the court determines that the complication and prolongation of the sentencing process involved in ordering restitution outweighs the need to provide restitution to any victims, the court may decline to do so. 18 U.S.C. § 3663(a)(1)(B).

#### **C. Other Restitution**

##### **1. Restitution as a condition of probation**

Restitution can be ordered as a discretionary condition of probation and is not limited to the offenses set forth in 18 U.S.C. §§ 3663(a) or 3663A(c)(1)(A) (offenses for which mandatory or discretionary restitution applies).

##### **2. Child Support Recovery Act Restitution**

One offense that has in the past been considered to involve mandatory restitution that is not addressed with the new Act is the failure to pay child support obligations, 18 U.S.C. § 228. The specific offense provision states that "the court shall order restitution under section 3663" -- the discretionary restitution statute. Accordingly, the defendant's economic circumstances can be considered by the court in determining whether to award past due support as restitution.

##### **3. Plea agreements - victims of non-conviction offenses**

The Act provides that the court shall order restitution to persons other than the victim of the offense if agreed to by the parties in a plea agreement. 18 U.S.C. § 3663A(a)(3).

#### **IV. Restitution Procedures**

Regardless of how restitution is imposed - as mandatory under new 3663A or the Violence Against Women Act provisions, as discretionary under 3663, or as a



condition of probation - the procedures that must be followed are now all set forth in 18 U.S.C. § 3664, which has been substantially modified.

**A. Determining the Amount of Restitution**

**1. Presentence Report**

The probation officer is now required to include in the presentence report (or another report if a presentence report is not prepared):

- a. A complete accounting of losses to each victim;
- b. Restitution owed pursuant to a plea agreement; and,
- c. Information relating to the economic circumstances of each defendant. (To be obtained by an affidavit filed by the defendant with the probation officer pursuant to amended 18 U.S.C. § 3664(d)(3)).

**2. Exceptional circumstances**

If the number or identity of the victims cannot be ascertained, or other circumstances exist that make this requirement impracticable, the probation officer will inform the court. 18 U.S.C. § 3664(a).

**3. Prosecutor's Role**

Under the Act the probation officer may ask the prosecutor to provide a listing of the amounts subject to restitution no later than 60 days prior to sentencing. The attorney for the Government must first consult, "to the extent practicable", with all identified victims. 18 U.S.C. § 3664(d).

**4. Notice to Victims**

It is the probation officer's responsibility to provide notice to all identified victims of:

- the offense(s) of which the defendant was convicted;
- the amounts subject to restitution submitted to the probation officer;
- the opportunity of the victim to submit information to the probation officer concerning the amount of the victim's losses;
- the scheduled date, time, and place of the sentencing hearing;
- the availability of a lien in favor of the victims pursuant to subsection (m)(1)(B); and,
- the opportunity of the victim to file with the probation officer a separate

affidavit (provided by the probation officer) relating to the amount of the victim's losses subject to restitution. 18 U.S.C. § 3664(d)(2).

**5. Additional evidence**

After reviewing the probation officer's report, the court may require additional documentation or hear testimony. 18 U.S.C. § 3664(d)(4). These proceedings may be done in camera for privacy concerns and are governed only by Fed.R.Crim.P. 32(c), chapter 227 (sentences) and chapter 232 (miscellaneous sentencing provisions). 18 U.S.C. § 3664(c).

**6. Postponement of determination of loss**

If the victim(s) losses cannot be determined within 10 days of the sentencing hearing, the attorney for the government or the probation officer must inform the court and a date for final determination of the losses can be set for up to ninety days after the sentencing. 18 U.S.C. § 3664(d)(6). The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense is on the government. 18 U.S.C. § 3664(e).

**7. The court shall order restitution to each victim in the full amount of each victim's losses, without consideration of the economic circumstances of the defendant. 18 U.S.C. § 3664(f)(1)(A).**

For example, for discretionary restitution under 3663, the amount of the loss and the defendant's economic circumstances can be considered by the court on the issue of whether to award restitution, but once that decision is made, those considerations are irrelevant to the amount of restitution ordered.

**8. Additional Losses**

Even after a final determination of restitution, a victim may petition the court for an amended restitution order within 60 days after discovering additional losses. A showing of good cause for failure to include such losses in the initial claim is required before such an order can be granted. 18 U.S.C. § 3664(d)(5).

**B. Payment Provisions**

**1. Manner and schedule to be determined by court**

After the court determines the amount of restitution owed to each victim, the court must establish the manner and schedule according to which restitution is to

be paid. 18 U.S.C. § 3664(f).

**2. Options for payment**

After considering the economic circumstances of the defendant, the court may order payment of a single, lump sum, partial payments at specified intervals, in-kind payments, or a combination of payments at specified intervals and in-kind payments. Id.

**3. Preference for immediate payment**

Payment shall be made immediately, unless, in the interest of justice, the court provides for payment on a date certain or in installments. 18 U.S.C. § 3572(d)(1). And, if the court orders other than immediate payment, the length of time over which scheduled payments are made shall be the shortest time in which full payment can reasonably be made. 18 U.S.C. § 3572(d)(2).

**4. Nominal payments**

If the "economic circumstances of the defendant do not allow the payment of any amount of a restitution order, and do not allow for payment of the full amount of a restitution order in the foreseeable future under any reasonable schedule of payments," the court can order the defendant to make nominal periodic payments. §3664(f)(3)(B).

**5. The court can set up different payment schedules for different victims. 18 U.S.C. § 3664(i).**

**6. Private, nonfederal victims must be paid prior to the United States when the United States is also a victim. 18 U.S.C. § 3664(i).**

**7. Defendant receives funds**

If an incarcerated defendant who is obligated to pay restitution or a fine receives "substantial resources from any source", the defendant is required to apply the value of the resources to any unpaid restitution or fine. 18 U.S.C. § 3664(n).

**8. Change in circumstances**

The defendant is required to notify the court and the Attorney General of any material change in economic circumstances which might affect his or her ability to pay restitution. Victims and the United States may also notify the court of any change in the defendant's economic condition. The Attorney General must

then certify to the court that all of the victims have been notified of the change in the defendant's economic circumstances. After receiving this notification, the court may on its own or on motion of any party, adjust the repayment schedule. 18 U.S.C. § 3664(k).

**V. Enforcement of Restitution**

**A. Liability to pay**

The liability to pay a fine or restitution lasts twenty years plus any period of incarceration or until the death of the defendant. 18 U.S.C. § 3613(c). During that time a fine or restitution order must be enforced by the United States to the fullest extent of the law. s 209 of the Act.

**B. Enforcement by the United States**

**1. General Provision**

The Act provides that an order of restitution may be enforced by the United States: in the manner provided for fines (chapters 227 and 229 of title 18)(like a civil judgment under federal or state law - 18 U.S.C. § 3613(a)); or by all other available and reasonable means. 18 U.S.C. § 3664(m)(1)(A)(i) and (ii).

**2. Enforcement like a fine - generally**

The fine statutes that provided for payment and collection of a fine (18 U.S.C. § 3611-3615) have been substantially rewritten. Some of the significant changes are:

- a. Payments for fines, restitution and special assessments must be made to the clerk of the court. 18 U.S.C. § 3611.
- b. Payments are now statutorily mandated to be applied in the following order:
  1. Special Assessments
  2. Restitution to all victims
  3. All other fines, penalties, costs and other payments required under the sentence. 18 U.S.C. § 3612(c).
- c. Delinquency and default penalties apply to restitution as well as fines. 18 U.S.C. §§ 3612(d) and (e); 3572(h) and (i).

- d. Interest accrues on restitution. 18 U.S.C. § 3612(f).
- e. A defendant can be resentenced under 18 U.S.C. § 3614 for knowingly failing to pay a fine or restitution.

### **3. The Lien**

- a. An order of restitution is a lien in favor of the United States on all property and rights to property of the person fined as if it were liability for unpaid taxes. 18 U.S.C. § 3613(c).
- b. The lien arises on the entry of judgment and continues until satisfied, remitted or set aside, or for twenty years plus the period of incarceration or the death of the defendant. 18 U.S.C. § 3613(c).

### **4. Enforcement Procedures**

Either state or federal procedures may be used to effect enforcement for restitution (or a fine). This allows the United States to enforce fines and restitution using the post-judgment procedures in the Federal Debt Collection Procedures Act, 28 U.S.C. §§ 3203--3206. And, under federal law, criminal defendants have very limited property that is exempt from seizure.

### **5. Exempt property**

The exempt property provisions of the Federal Debt Collection Procedures Act, 28 U.S.C. § 3014, do not apply. 18 U.S.C. § 3613(a)(2). The only property that is exempt from enforcement under federal law for fines and restitution is some of the same property that is exempt from IRS levy for taxes.

### **6. Garnishment**

The provisions of the Consumer Credit Protection Act, 15 U.S.C. § 1673 apply. The procedures for garnishments under the Federal Debt Collection Procedures Act, 28 U.S.C. § 3205, can be used.

## **B. Enforcement by the victim**

### **1. Some ambiguity**

The Act deletes the clear language of former § 3663(h)(2)(repealed) that allowed a victim to enforce an order of restitution "in the same manner as a

civil judgment."

## **2. An Abstract of Judgment**

The new law entitles a victim named in the restitution order to an abstract of judgment that, upon registering, recording, docketing, or indexing in accordance with state law, is a lien on the property of the defendant located in the state to the same extent as a judgment in state court. 18 U.S.C.

§ 3664(m)(1)(B). The precise rights that this provides a victim will be subject to state law.

## **C. Effect of Default**

### **1. The new statute**

A new section has been added to the fine statutes, 18 U.S.C. § 3613A - Effect of Default. Upon a finding that the defendant is in default of a payment toward a fine or restitution, the court may:

- Revoke the defendant's probation or supervised release pursuant to 3565;
- Modify the terms of the defendant's probation or supervised release;
- Resentence a defendant under 18 U.S.C. § 3614;
- Hold the defendant in contempt of court;
- Enter a restraining order or injunction;
- Order the sale of property of the defendant;
- Accept a performance bond;
- Enter or adjust the defendant's payment schedule; or,
- Take any other action necessary to obtain compliance. 18 U.S.C. § 3613A(a)(1).

### **2. Standard**

In determining what action to take, the court must consider the defendant's employment status, earning ability, financial resources, and willfulness in failing to comply with the order. 18 U.S.C. § 3613A(a)(2). Any default hearing that is held shall be held by a magistrate judge and, to the extent practicable, be conducted without removing an incarcerated defendant from prison. 18 U.S.C. § 3613A(b).

## **VI. Effective Date**

### **A. The law**

The Act states that the amendments that it makes "shall, to the extent constitutionally permissible, be effective for sentencing proceedings in cases in which the defendant is convicted on or after the date of enactment..." 211 of the Act.

### **B. Criminal Division Guidelines**

The June 3, 1996, Criminal Division Memorandum to all federal prosecutors discusses in detail categories of ex post fact issues for provisions of the Act. Generally, the following rules apply:

1. Any provisions of the Act for determining whether to impose restitution or the amount of restitution may be applied only prospectively, to offenses completed on or after April 24, 1996.
2. Any provision providing enforcement mechanisms or remedies for delinquencies in payment of restitution or criminal fines applies to cases in which the defendant is convicted on or after April 24, 1996, regardless of the offense date.
3. Any other provision that does not affect the imposition or amount of restitution or criminal fine adversely from the defendant's standpoint applies to cases in which the defendant is convicted on or after April 24, 1996, regardless of the offense date.

**The Law Enforcement-Based  
Victim/Witness Assistance Program  
February 11, 1997**

**Intro and Background**

History of V/W Movement

Laws

VWPA '82

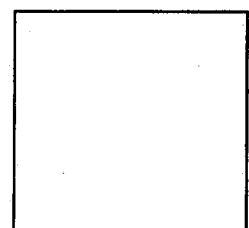
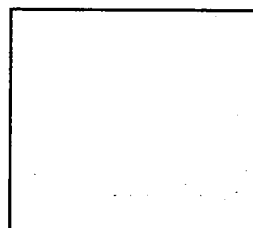
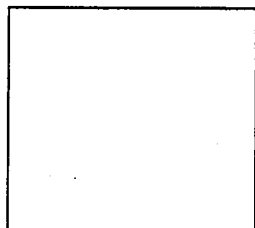
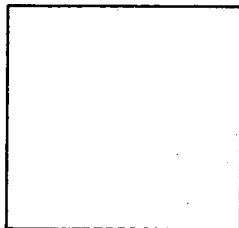
VOCA '84

VRRA '90

Notes:

What do WE get out of it?

**Basic V/W Program Structure**





### Three VWAP Models

I. "VWC Does Everything" Model

II. "VWC As Resource and Guide" Model

III. "Rotating Duty" Model

### HQ Program Manager Responsibility

SOG-level Coordination  
Guidance to Field  
Dispel "social worker"  
attitude

Notes:

### Field Office or Regional V/W Coordinator (VWC)

Resource for all  
Education and training  
Coordination  
Statistics

Notes:

### Local Office VWC Responsibilities

Coordinate with "PIPC+"  
Participate in V/W Council  
Resource to all agents

Notes:

## LE Responsibilities

### The "Top 10" List

10. Know resources
9. V/W Council
8. Liaison
7. Explain "system"
6. Training
5. Safety
4. Advocates
3. Emergency medical care
2. Smooth hand-off

Notes: (refer to attached full list)

**#1:**

## Current Dangers/Future Vision

### Danger!

- Victim harm
- Bad press
- Agency "vilification"
- Congressional inquiries

Notes:

### Vision:

- Continuing groundswell
- Constitutional amendment
- As common as Miranda

### Quick Review

The Basic LE Interrogatives:

WHO?

WHAT?

WHERE?

WHEN?

WHY?

HOW?

Notes:

### Immediate Actions...

### Speaker

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Naval Criminal Investigative Service HQ

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THE FOLLOWING IS A SUMMARY OF THE RESPONSIBILITIES OF FEDERAL LAW ENFORCEMENT PERSONNEL IN DEALING WITH VICTIMS AND WITNESSES OF CRIME:

A. Determine ahead of time the information which will be used in the blank spaces of the informational brochures and routinely carry them with you.

B. Ensure that victims and witnesses are informed of available emergency medical and social services and how to obtain those services, if needed.

C. Provide information on restitution and compensation to which the victim may be entitled.

D. Provide information on victim counseling and treatment programs which may be available within the local community and assistance in making contact with those services, if needed.

E. Explain the role of the victim in a criminal investigation and prosecution and what may be expected from the system as well as what the system expects from victims and witnesses. This should not be a detailed presentation on the criminal justice system, but a general idea of how the investigation will be handled and an overview of the prosecutive process. Should a suspect be identified, the prosecutor will provide more detailed information on prosecution.

F. LE personnel should arrange for victims and witnesses to receive reasonable protection from suspected offenders and persons acting in concert with or at the behest of the offender. We can not guarantee safety, and the victim needs to understand that, but we can help the victim determine steps to be taken which will minimize the possibility of further harm from an offender.

G. If the victim so requests, the case agent or other personnel should keep the victim informed of the status of the investigation as long as such information does not interfere with the investigation itself.

H. Victims and witnesses should be informed of the arrest of a suspect.

I. Generally the responsibility of the prosecutor, but often falling to the case agent, victims and witnesses should be also informed of filing of charges against an accused, all court appearances, and the release or detention of an accused pending action.

J. The law further requires the reasonable separation of victims and witnesses from the accused during the trial. It is logical that efforts should

also be made by Federal agents to keep victims and witnesses separate from any suspect within their own offices.

K. Special agents should ensure that any property of the victim being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed. This should be common practice but is highlighted here as it is specifically mentioned in the Victims' Rights and Restitution Act (VRRRA) of 1990.

L. Special agents should ensure that the cost of medical examinations of sexual assault victims conducted for evidentiary purposes will not be borne by the victim. The VRRRA requires the investigative agency to pay for the exam or to reimburse the victim for the cost of the exam.

M. Ensure that investigative notes are annotated in some way to reflect that victims and appropriate witnesses were given V/W information.

N. Ensure that case agents are reporting the number of victims and witnesses informed in each case within the agency for end of year stats unless the information is collected automatically.

## Federal Laws Pertaining to Law Enforcement

### Victim and Witness Protection Act of 1982

<p>(1) Services to Victims of Crime. Law enforcement personnel should ensure victims routinely receive emergency social and medical services as soon as possible and information on:</p>	<p>(A) Info on crime victim compensation (B) Community-based victim treatment programs. (C) The role of the victim in the criminal justice process (D) Stages in the CJ process of significance to a crime victim and how info about such stages may be obtained</p>
<p>(2) Notification of Availability of Protection.</p>	<p>A victim or witness should routinely receive information on steps LE officers and attorneys for the Govt can take to protect victims/witnesses from intimidation</p>
<p>(3) Scheduling Changes.</p>	<p>Generally the responsibility of the prosecutor but often falling to the LE investigating agent</p>
<p>(4) Prompt Notification to Victims of Major Serious Crimes. Victims, witnesses, relatives of victims and witnesses who are minors, and relatives of homicide victims should, if they provide contact info, receive prompt advance notification, if possible, of judicial proceedings related to their case, including:</p>	<p>(A) The arrest of an accused (B) The initial appearance of an accused before a judicial officer (C) The release of the accused pending judicial proceedings, and (D) Proceedings in the prosecution of the accused</p>
<p>Note that there is a transition area where the responsibilities of NCIS end and the responsibilities of the trial counsel begin. This is not a sharp line, but an area in which, if a suspect has been identified, the Special Agent and the trial counsel should be in close coordination to ensure that victims and appropriate witnesses are kept informed.</p>	

### The Victims of Crime Act of 1984

- Set up the Crime Victims' Fund, into which go all fines which are collected from persons convicted of offenses against the United States, with some exceptions, and sets up guidelines for disbursement of those funds through state crime victims compensation programs.
- Established the Office for Victims of Crime within the Department of Justice.
- Provides that collateral profits of crime, such as book or movie rights, may be forfeited to the United States into the Crime Victims' Fund.

## Victims' Rights and Restitution Act of 1990

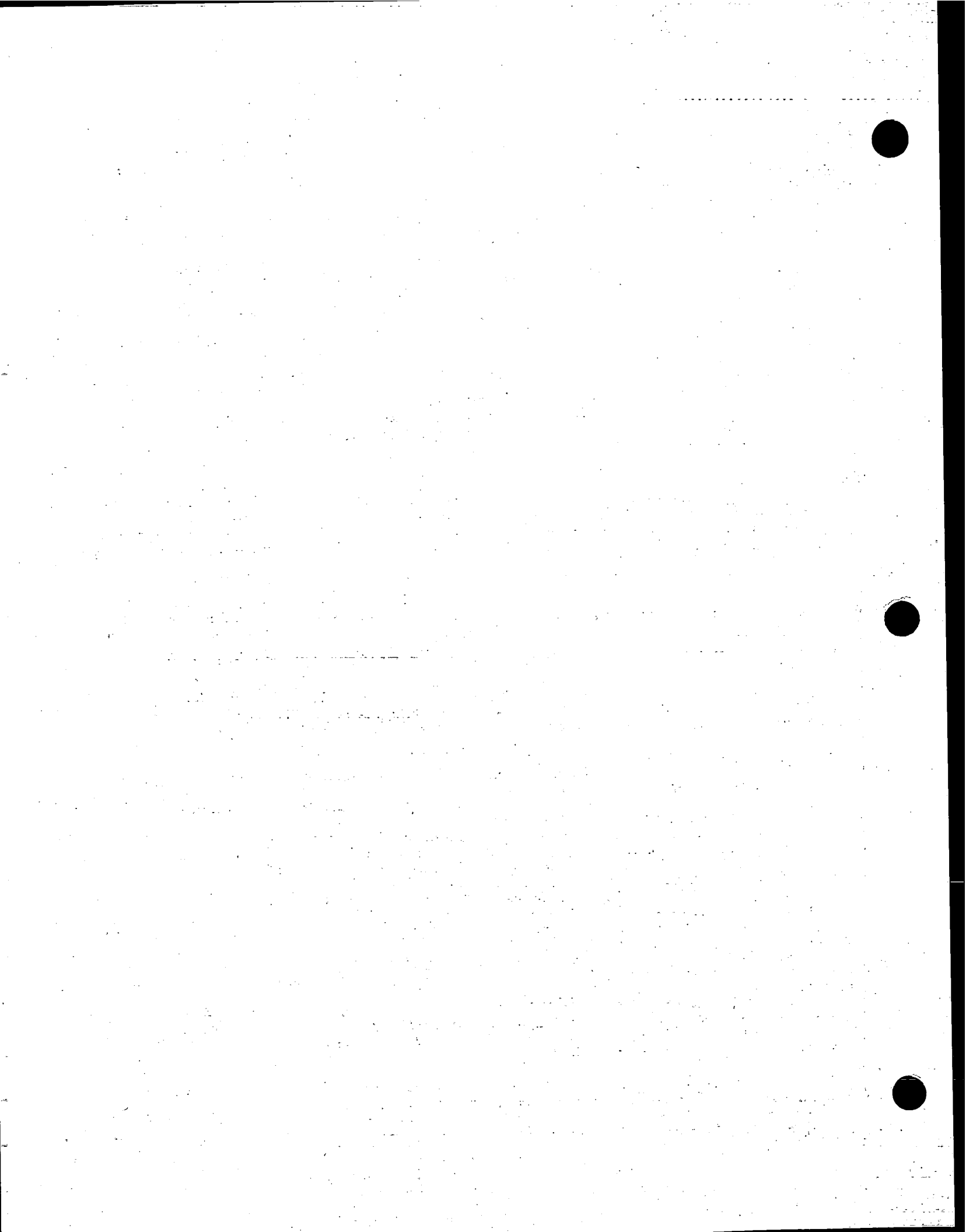
<p>The RIGHTS of Crime Victims</p>	<ol style="list-style-type: none"> <li>1. The right to be treated with fairness and with respect for the victim's dignity and privacy.</li> <li>2. The right to be reasonably protected from the accused offender.</li> <li>3. The right to be notified of court proceedings.</li> <li>4. The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.</li> <li>5. The right to confer with attorney for the Government in the case.</li> <li>6. The right to restitution.</li> <li>7. The right to information about the conviction, sentencing, imprisonment, and release of the offender.</li> </ol>
<p>Services to Victims. At the earliest opportunity after detection of a crime at which it may be done without interfering with an investigation, a responsible official shall:</p>	<ol style="list-style-type: none"> <li>1. identify the victim or victims of a crime;</li> <li>2. inform the victims of their right to receive, on request, the services described below;</li> <li>3. inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described below:</li> </ol>
<p>A responsible official shall:</p>	<ol style="list-style-type: none"> <li>a. inform a victim of the place where the victim may obtain emergency medical and social services;</li> <li>b. inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;</li> <li>c. inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and</li> <li>d. assist a victim in contacting the persons who are responsible for providing the services and relief described above.</li> </ol>
<p>A responsible official shall:</p>	<p>...arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.</p>
<p>During court proceedings, a responsible official shall provide a waiting area removed from and out of sight of the defendant and defense witnesses.</p>	<p>While not stated in the law, this procedures should also be followed in law enforcement and investigative agency offices, also.</p>

<p>During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notification of:</p>	<ul style="list-style-type: none"> <li>a. the status of the investigation of the crime, to the extent it is appropriate and will not interfere with the investigation;</li> <li>b. the arrest of a suspected offender;</li> <li>c. the filing of charges against a suspected offender</li> <li>d. the scheduling of each court proceeding that the witness is either required to attend or...entitled to attend.</li> <li>e. the release or detention status of an offender or suspected offender;</li> <li>f. the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and</li> <li>g. the sentence imposed on an offender, including the date on which the offender will be eligible for parole.</li> </ul>
<p>At all times, a responsible official shall:</p>	<p>Ensure that any property of a victim that is being held as evidence is kept in good condition and returned as soon as not longer needed as evidence.</p>
<p>The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault...</p>	<p>...shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim which an investigating officer determines was necessary or useful for evidentiary purposes.</p>
<p>A responsible official shall...</p>	<p>...provide the victim with general information about the corrections process, including info about work release, furlough, probation, and eligibility for each.</p>

Also included in the Act itself is a section entitled **SENSE OF CONGRESS WITH RESPECT TO VICTIMS OF CRIME**. This may enable the reader to better understand what Congress is trying to accomplish with this law.

1. Victims of crime should be treated with compassion, respect and dignity throughout the criminal justice process.
2. Victims of crime should be reasonably protected from the accused throughout the criminal justice process.
3. Victims of crime should have a statutorily designated advisory role in decisions involving prosecutorial discretion, such as the decision to plea-bargain.
4. Victims of crime should have the right to a reasonable assurance that the accused will be tried in an expeditious manner.
5. A victim of crime should have the right to be present at all proceedings related to the offense against him, unless the victim is to testify and the court determines that the victim's testimony would be materially prejudiced by hearing other testimony at the trial.
6. Victims of crime should have the right to information about the conviction, sentencing and imprisonment of the person who committed the crime against them.
7. Victims of crime should be compensated for the damage resulting from the crime to the fullest extent possible by the person convicted of the crime.
8. Victims of crime should have a statutorily designated advisory role in deciding the early release status of the person convicted of the crime against them.
9. A victim of crime should never be forced to endure again the emotional and physical consequences of the original crime.





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# CRIME VICTIM COMPENSATION

## AN OVERVIEW

*Crime victim compensation programs across the country offer crucial financial assistance to victims of violence. This overview provides information on how the programs operate and what victims can do to seek help.*

Victims of criminal violence may suffer physical injury, emotional and mental trauma, and financial loss. For these victims and their families, the aftermath of crime can be a painful, difficult time, compounded by worry over whether hospitals and doctors can be paid, or whether income lost due to disability will affect the victim's capacity to pay for other essential living expenses.

Crime victim compensation programs exist to provide financial assistance to crime victims. These programs, now operating in all 50 states, the District of Columbia, Guam and the Virgin Islands, can pay for medical care, mental health counseling, lost wages and, in cases of homicide, funerals and lost support.

While no amount of money can erase the trauma and grief victims suffer, this financial aid can be crucial in the recovery process, and can help victims preserve their stability and dignity.

Nearly every type of violent crime can result in a financial loss for which compensation programs can pay. Victims of rape, assault, robbery, sex abuse, drunk driving, and domestic violence, as well as the families of homicide victims, are examples of those who are eligible to apply for financial help.

With very few exceptions, compensation programs pay only for expenses related to personal injury, and do not cover property that is stolen, lost or damaged. As an example, if a robber assaults an individual and steals something from him or her, all programs can pay for the medical costs related to any resulting personal injury, but only a couple can pay for the replacement of the stolen property. (Eyeglasses, hearing aids, and medical prostheses damaged or stolen are an exception to this general exclusion.) It's important to check with the specific state to determine exactly what it can cover.

In addition, it's important to remember that compensation programs are "payers of last resort," meaning that they cannot offer benefits for expenses covered by "collateral resources," such as medical and automobile insurance, employee benefits, other public assistance programs, and restitution. With limited funds, programs must conserve scarce resources as much as possible.

Many programs have experienced a remarkable increase in applications in recent years. Extensive outreach efforts, along with the growth in other victim programs and new laws mandating that services and information be provided to victims, have resulted in a doubling and tripling of victims applying for help in the past decade.

While compensation programs are striving to meet this rising demand, stresses on program resources and administration are inevitable, particularly as many state government budgets have declined, and specific sources of revenue for compensation programs have failed to keep pace. For some programs, there is serious concern about whether there will be enough money to pay claims, and enough staff to process them. Still, compensation programs everywhere are working hard to process claims promptly, while at the same time seeking necessary legislative changes to boost revenue and control costs. Programs also are working harder to recover from offenders the compensation payments made to victims, by aggressively enforcing restitution and subrogation rights.

The growth in claims shows that more victims are receiving the financial help they need. The nation's compensation programs are committed to serving victims, and will continue to be a crucial factor in helping victims recover from the trauma and economic burden of criminal victimization.



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## *Program Development, Size and Structure*

California established the nation's first compensation program in 1965, and five other states created programs in the next three years. By 1980, 28 states were providing victim compensation, and most of the rest of the states authorized programs during the next decade. In 1996, all 50 states, plus the District of Columbia and the Virgin Islands, are operating compensation programs, paying out nearly \$250 million annually to more than 100,000 victims nationwide.

California is the largest program in the country by far, paying out about a third of the total benefits paid by all programs combined. (California awards between \$75-80 million annually, while the next largest program, Texas, pays out between \$20-30 million each year.) The median annual payout per state is just under \$2 million (half the states pay a total less than that, and half pay more), but the range is considerable, with 12 states paying less than \$500,000 annually and about the same number paying more than \$3 million.

Staff sizes tend to be quite small, with 12 states operating with 3 or less people, and 34 states employing less than 10. Only 7 states operate with more than 20 employees, California again being the largest, with over 250 employees.

The programs function within a variety of state and local government settings. Nearly a third are affiliated with criminal-justice-related executive branch agencies, and a fifth function as divisions of Offices of Attorneys General. Eight are independent agencies; workers' compensation bureaus house five of the victim compensation programs, and other affiliations include corrections departments, social services agencies, and finance and management departments. Four states operate their programs within courts or claims courts.

Colorado and Arizona are unique in operating compensation programs through local prosecutors' offices. Twenty-two compensation boards in Colorado (one for each district) and 15 boards in Arizona (one in each county) adjudicate claims under state law and coordination.

### *Funding*

Programs obtain their funding from a number of different sources, but the states can be divided into two basic categories: those that receive the bulk of their funding from fees or charges that offenders pay, and those that depend on general-revenue appropriations from legislatures. More than four-

fifths of the states are in the first category, gaining most of their income from offenders; in fact, in a large majority of states, no tax dollars are involved at all in either the administration of the program or in the awards given to victims.

The types and level of offender assessments vary markedly from state to state. Many states require that offenders pay a set penalty or fee, such as \$25 per felony and \$15 per misdemeanor, into a crime victim compensation fund. Other states will take a certain percentage of the offender's fine, or place a surcharge upon that fine, and use it for compensation funding.

**Fund Recovery.** Because offenders and others liable for injury to victims should pay for the consequences of crime, and because programs need to make the most of the scarce resources available for compensation, "fund recovery" has become an important concern for many programs. Some are aggressively seeking restitution from offenders by working with prosecutors and judges to ensure restitution orders are sought and issued, and by monitoring payment through appropriate channels.

While for most programs, fund recovery is a minor source of total income, a few programs are beginning to recover more than 10% of their awards.

**VOCA.** Federal funds provide about 20% of the state compensation programs' total budgets. Under the Victims of Crime Act of 1984 (VOCA), each eligible program can receive a grant equaling 40% of the state dollars awarded to victims. In other words, for every 100 state dollars spent, the program will receive 40 federal dollars through a process that will make the funds available a little over a year after the end of the fiscal year upon which the calculation is based. This theoretically results in a 72%/28% state-to-federal mix of money (out of every \$140 dollars available, \$100 will be state, and \$40 will be federal). But since many programs are paying more and more in awards each year, the federal funds will be proportionately less of the total by the time they are available in the grant process. State funds also must pay for nearly all administrative costs, since only 5% of VOCA funds can be used for administration.

To be eligible for a federal grant, certain conditions must be met. Programs must cover medical expenses, mental health counseling, and lost wages, as well as funeral expenses and lost support for families of homicide victims. They must also consider drunk driving and domestic violence as compensable crimes, and must not categorically exclude domestic violence victims on the basis of their being related to or living with the offender.

(Programs may deny claims when an award to the victim would unjustly enrich the offender.) Programs also must comply with statistical reporting requirements. All states currently meet the standards except Nevada, which does not cover non-residents criminally injured within its borders.

The VOCA grant program is administered by the Office for Victims of Crime in the U.S. Justice Department, which also provides valuable technical assistance to the state compensation programs.

### *The Application Process*

Application procedures vary from state to state, but in a typical state, a victim will be referred to a compensation program by police, prosecutors, victim-witness programs or service providers, or through a poster or written material developed by the compensation program itself. Applications are usually available through law enforcement or victim assistance and service programs, or through direct contact with the compensation program.

The victim is responsible for completing the application form and providing all requested documentation. The victim must return the form to the compensation program or some designated intermediary.

Most programs process claims through a staff centralized in one office in the state capital, but a few states have branch or regional offices, and a few (other than Colorado and Arizona) make use of locally based individuals in other entities or agencies to perform preliminary work on applications (document gathering and verification) prior to final decision making in the central office.

Decision-making authority varies from state to state, with about half the states using part-time boards or commissions to determine eligibility and awards, and about half authorizing full-time administrative staff (usually program directors) to make determinations. In the court-based programs, judges or court-appointed officials decide claims.

While each state operates under its own law, rules, policies and procedures, all of the programs share broadly similar eligibility requirements and cover substantially the same types of expenses. The information provided in the sections that follow is intended to focus on the characteristics common to nearly all programs, but victims should be sure to check with the programs to which they apply to learn exactly how the program operates and what benefits may be available. The program itself, of course, is the only source for official and fully accurate information.

### *Eligibility Requirements*

While eligibility requirements vary somewhat from state to state, all programs have the same basic criteria. The victim must:

- o Report the crime promptly to law enforcement (72 hours is the general standard, though a few programs have shorter or longer periods, and nearly all have "good cause" exceptions applied liberally to children and incapacitated victims and in other special circumstances);

- o Cooperate with police and prosecutors in the investigation and prosecution of the case;

- o Submit a timely application to the compensation program (generally 1 year from the date of the crime, though a few states have shorter or longer time frames, and most can waive these requirements in exceptional circumstances) and provide other information as requested by the program;

- o Be innocent of criminal activity or significant misconduct that caused or contributed to the victim's injury or death.

Apprehension and/or conviction of a perpetrator is not a prerequisite to receiving compensation.

The eligibility of a victim's dependents or other secondary victims generally depends on the eligibility of the "direct" victim (the one who suffered the injury or death). For example, if a homicide victim was engaged in criminal activity, the family generally would be ineligible for any benefits.

Payment of benefits also depends on whether the expenses for which reimbursement is sought have not been or cannot be paid from some other collateral source (medical insurance, other public assistance programs, etc.).

### *Where to File*

The victim should file an application for compensation in the state where the crime takes place. All of the states, with the exception of Nevada, will accept applications from nonresidents who are injured within their borders (a very few states restrict eligibility to U.S. citizens).

If the crime occurs in Nevada to a nonresident, or if the crime took place in a state with a new program and before the date that the program began accepting applications, the victim should apply in the victim's state of residency. All of the states (but Nevada) will honor such applications as if the crime had taken place within their own borders.

A few states extend coverage to their residents who are injured in other states with compensation programs, as well as other countries, but awards are usually conditioned upon the victim first applying in that other state or country (if it has a program; a number of major developed countries, including Canada, Great Britain, Germany, and Australia, do).

### ***Federal Victims***

Victims of crimes falling under federal jurisdiction (crimes on Indian reservations, for example) should apply for compensation in the state in which the crime occurred. While there is no federal crime victim compensation program, each state treats federal crime victims as fully eligible for all the benefits available for victims of state and local crimes. Compensation programs depend on the help of federal victim/witness coordinators to inform federal victims of their opportunity to apply for benefits.

### ***Collateral Resources***

All compensation programs are "payers of last resort." This means that any other "collateral" sources of payment to the victim, such as restitution from the offender, medical or auto insurance, employee benefit programs, Social Security, and Medicaid/Medicare, must be accessed first before the programs will consider payment. (Since restitution, if paid at all, is often received over a long period of time, compensation programs will pay in advance rather than force the victim to wait to receive restitution.)

In addition, if the victim recovers any money from the offender or any other party liable for the victim's expenses, the compensation program must be paid back for that portion of the expenses for which the program has paid. (Generally, if the victim's losses are greater than the amount paid for by the compensation program, the program will expect repayment only after those other losses are fully reimbursed. In other words, if the victim's total losses are \$100,000, and the compensation program awards \$10,000, the amounts recovered otherwise by the victim from other sources can go to pay for the remaining \$90,000 in losses before the compensation program needs to be repaid.)

### ***Compensable Costs***

All compensation programs cover the same major types of expenses, though their specific limits

may vary. The primary compensable costs covered by all states are the following:

- o Medical expenses;
- o Mental health counseling;
- o Lost wages for victims unable to work because of crime-related injury;
- o Lost support for dependents of homicide victims; and
- o Funeral expenses.

Nearly all of each state's total awards to victims go toward paying the above expenses, with medical fees comprising well over half of amounts awarded to victims. Lost wage and support payments are the next largest payment category for most states, though awards for counseling are growing rapidly (a few programs are now paying from 20% to 40% of their awards for counseling).

In addition, a number of other expenses are paid for by some, but not all, programs, including:

- o Moving or relocation expenses, often limited only to instances where the victim is in imminent physical danger, or if medically necessary (severe emotional trauma from sex assault, for example);
- o Transportation to medical providers, usually limited to occasions when the provider is located in a place distant from the victim's residence, or when other special circumstances exist;
- o Replacement services for work the victim is unable to perform because of crime-related injury (child care, housekeeping), usually limited to payments to non-family members;
- o Essential personal property lost or damaged during the crime (all states will cover medically necessary equipment, such as eyeglasses or hearing aids, but only a few can cover anything else);
- o Crime-scene cleanup, or the cost of securing a home or restoring it to its pre-crime condition;
- o Rehabilitation, which may include physical therapy and/or job therapy; ramps, wheelchairs, and modification of homes or vehicles for paralyzed victims; and driving lessons.

### ***Maximums and Limits***

Maximum benefits available to victims from the state programs generally range between \$10,000 and \$25,000, though a few states have higher or lower maximums. (Nationally, the average amount paid to each victim applying for compensation is about \$2,000.) In addition, many states have lower limits on specific compensable expenses, like funerals and mental health counseling.

*More detailed descriptions of each state's requirements, benefits, and procedures can be obtained by contacting the state compensation program.*

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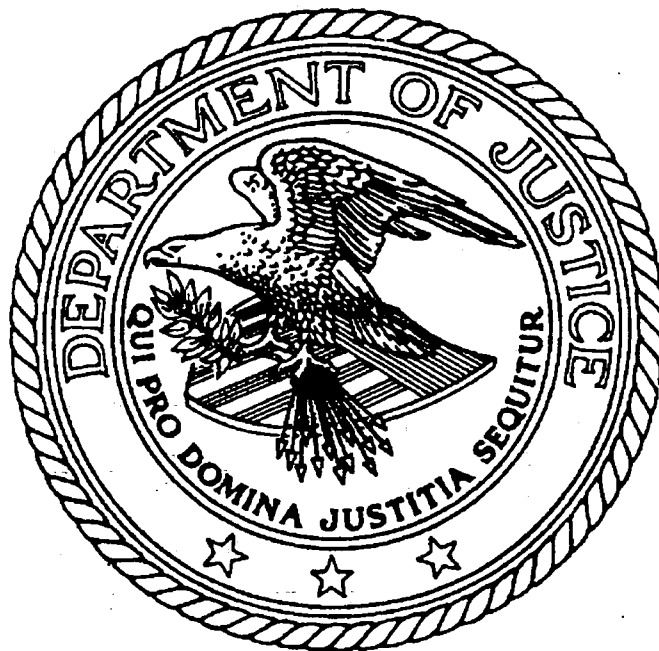
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# National Symposium on Victims of Federal Crime

Washington, D.C.  
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## Working Together: Building a Bank Robbery Response Team



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# "WORKING TOGETHER: Building a Bank Robbery Response Team"

## I. Bank Robbery Victimization

### A. Who are the victims of crime

1. This is not a crime of stolen money
2. This is a violent crime
  - a. victim teller
  - b. secondary crime victims
    - ☞ witness of robbery
    - ☞ those who were not present
  - c. managers
  - d. family members

### B. The concept of crime victim

An individual who has suffered injury and harm by forces beyond his or her control, and not of his or her personal responsibility due to illegal activity.

#### 1. Injury includes:

Physical  
Psychological  
Economic

#### 2. Re-victimization

Crime related psychological trauma due to the criminal justice system.

An effective partnership needs to be formed among:

the criminal justice system  
victim assistance personnel  
trained mental health professionals

C. Involvement with the criminal justice system requires crime victims to encounter many cognitive and environmental stimuli that remind them of the crime.

1. Having to look at the defendant in the courtroom.
2. Having to think about details of the crime when preparing to testify.
3. Victim's lack of information about the system, its procedures, and fear of the unknown.

D. The criminal justice process.

1. Case referral and charging decision

2. victim rights

- a. The right to be treated with fairness and with respect for the victim's dignity and privacy.
- b. The right to be reasonably protected from the accused offender.
- c. The right to be notified of court proceedings.
- d. The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
- e. The right to confer with the attorney for the Government in the case.
- f. The right to restitution.
- g. The right to information about the conviction, sentencing, imprisonment, and release of the offender.

3. Victim Impact Statements

- a. The right to submit victim impact statements that include crucial information about the short - and long-term psychological, financial, physical, and emotional effects of a crime.
- b. Samples of victim-impact statements from bank robbery victims.

Role modeling ☞ Victims ☞ Law Enforcement ☞ Bank Management

II. Specific roles and responsibilities of law enforcement officials to victims of crime.

1. Referral to emergency medical services.
2. Orientation to law enforcement and investigatory process.
3. Provision of or referral to crisis intervention and psychological first aid.
4. Providing information about victim's rights and crime victim compensation.
5. Assigning a staff member to serve as a liaison to crime victims and victim services.
6. Providing follow-up.

III. Personal Consequences of Being a Victim

1. Fear

they are afraid of leaving the bank, being in public, or being re-victimized.

2. Hyper-Alertness

they find that they startle easily: they "jump" when suddenly approached by customers or when they hear loud sounds.

3. Guilt

they feel that they could have done something differently.

4. Anger

they are enraged that their life has been disrupted and that they no longer feel safe or in control.

5. Isolation

they feel that they are the only ones who are having reactions to the event; they feel isolated from family and friends.

IV. **Victim Bank Tellers perspective to a bank robbery and the Criminal Justice System**

**Lyneen Fischer, Victim Teller, North Shore Bank,  
Milwaukee, Wisconsin**

V. **Bank Robbery Statistics**

VI. **Video: "After the Robbery: Crisis to Resolution"**

VII. **Putting together a winning team**



# **Attorney General Guidelines for Victim and Witness Assistance**

**1995**

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## B. Mandatory Reporting of "Best Efforts"

In the spirit of full compliance with these Guidelines, each United States Attorney<sup>5</sup>, Department chief of litigation, F.B.I. Special Agent-in-Charge (through the Director, F.B.I.), D.E.A. Special Agent-in-Charge (through the Administrator, D.E.A.), as well as each responsible official of the Department's investigating field offices and correctional facilities, *shall* report annually to the Attorney General, through the Director, Office for Victims of Crime, by February 1st of each year, on the "Best Efforts" they have made during the preceding fiscal year, in ensuring that victims of crime are accorded the rights set out under Federal Law.

The responsible official, in preparing the annual "Best Efforts" Report, *shall* include an account of practices and procedures which have been adopted (and are in actual use in each of their respective offices), during the preceding fiscal year, to provide the services to victims mandated under Federal law.

## C. Performance Appraisal

The Attorney General directs that the annual performance appraisal of each appropriate Federal law enforcement officer, supervisor, investigator, prosecutor, and corrections officer (as well as appropriate staff of those agencies) include, as a required activity, implementation of and adherence or non-adherence with the victims' rights and victims and witnesses service provisions set forth in these Guidelines. Institution of this recommendation *must* be included in the annual "Best Efforts Report".

## ARTICLE III. SERVICES TO VICTIMS AND WITNESSES

As a general rule, for purposes of this Article, investigative components will be responsible for C(1), (2), and (3), D(1), (2), (3)(a)(b), (5) and (6), E(1) and E(3)(a); prosecutorial components will be responsible for D(3)(c)-(h), and (4), E(2)(a), E(3)(b)(i & iii) and E(4); and correctional components will be responsible for D(7) and (8).

Accordingly, at each stage in the performance of services, the transition of responsibility from one component of the Department of Justice to the next must, of necessity, include a sharing of information (in many cases prior to the actual turning over of responsibility). In this way, gaps in notification and other services are eliminated and crime victims receive uniform rather than fragmented treatment, starting from the initial investigation and continuing throughout their entire involvement with the Federal criminal justice system.

### A. Designation of Responsible Officials

For purposes of these Guidelines, the Attorney General makes the following designations of persons who will be responsible for identifying the victims of crime and performing the services

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<sup>5</sup>U. S. Attorneys may comply with this requirement by the filing of their annual report on victim and witness assistance with the Executive Office for U. S. Attorneys.

due victims and witnesses under Federal law.

In cases in which the United States or the public at large are the victims (e.g., tax evasion and public corruption), victim services generally will be inapplicable; but in virtually all cases, there will be witnesses who will be entitled to witness services such as employer or creditor intercession/notification and court attendance information e.g., parking and transportation.<sup>6</sup>

(1) Investigation

For cases under investigation, and in which no charges have yet been instituted, application of this section will be the responsibility of the following officials:

(a) With respect to offenses under investigation by the Federal Bureau of Investigation, the responsible official shall be the Special Agent-in-Charge of the division having primary responsibility for conducting the investigation;

(b) With respect to offenses under investigation by the Drug Enforcement Administration, the responsible official shall be the Special Agent-in-Charge of the office having primary responsibility for conducting the investigation;

(c) With respect to offenses under investigation by the Immigration and Naturalization Service, the responsible official shall be the District Director or Chief Patrol Agent of the office having primary responsibility for conducting the investigation; and

(d) With respect to offenses under investigation by the U.S. Marshals Service, the responsible official shall be the U.S. Marshal in whose district the case is being conducted.

(2) Prosecution

For cases in which charges have been instituted, the responsible official shall be the U. S. Attorney in whose district the prosecution is pending. For cases in which a litigating division of the Department of Justice is solely responsible, the responsible official shall be the chief of the section having responsibility for the case. The Department attorney handling the case shall perform the same duties under these Guidelines as are required of an Assistant U.S. Attorney.

(3) Custodial and Corrections

For cases in which the U. S. Marshals Service is the custodial agency, housing Federal pretrial detainees (at the same time the offender is being concurrently prosecuted by the U. S. Attorney's Office), the responsible official shall be the U. S. Attorney in whose district the prosecution is pending. For cases in which the Bureau of Prisons has become involved, the responsible official shall be the Director or Warden of each Bureau of Prisons facility where the defendant is incarcerated.

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<sup>6</sup>See also 18 U.S.C. Section 1512 (Tampering with a Witness, Victim, or an Informant) and Section 1513 (Retaliating Against a Witness, Victim, or an Informant).

## B. Delegation and Coordination

In order to implement the requirements of the Act, there must be one individual who shall be designated specifically to carry out victim-witness services in each of the Department of Justice investigating field offices and correctional facilities, U.S. Attorney's Office, and Justice Department litigating division. This person shall be delegated authority by the responsible official to carry out the activities enumerated in these Guidelines.

It is incumbent upon responsible officials to ensure that all components of the Department of Justice cooperate with each other to the maximum extent possible in providing victims the services to which they are legally entitled. In many instances where certain duties and responsibilities overlap, the responsible officials must take all steps necessary to require coordination and inter-agency teamwork.

Moreover, all components shall work with appropriate components of other Federal agencies that investigate and prosecute violations of Federal law to assist them in providing these services to victims; and shall coordinate their victim-witness service efforts with State and local law enforcement officials, including tribal police officials in Indian Country and victim assistance and compensation service providers.

## C. Identification of Victims

At the earliest opportunity after the detection of a crime, the responsible official of the investigative agency *shall* make reasonable and diligent efforts to:

- (1) identify the victims of a crime;
- (2) inform the victims of their right to receive, on request, the services available under Federal law<sup>7</sup>; and
- (3) inform each victim of the name, title, business address and telephone number of the responsible official to whom such a request for services should be addressed.

Within the meaning of this Article, "the earliest opportunity" means one that will not interfere with an investigation or hamper the responsible official in the performance of other law enforcement responsibilities.

In order to comply with the above informational requirements, it is recommended that a printed

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<sup>7</sup>Victim and Witness Protection Act of 1982, P.L. 97-291 (October 12, 1982); Crime Control Act of 1990, P.L. 101-647 (November 29, 1990); Violent Crime Control and Law Enforcement Act of 1994, P.L. 103-322 (September 13, 1994). Victims of juvenile offenders (being proceeded against as Federal juvenile delinquents) are not necessarily entitled to all of the rights specified by the above statutes. Please contact the Office for Victims of Crime to obtain more information about services for victims of juvenile offenses.

brochure<sup>8</sup>; or wallet-size card that lists victims' rights and/or local service providers, brief description of rights and available services, as well as the names and phone numbers of key officials and victim-witness coordinator, be given to victims as soon as identified. Whenever possible, personal contact should be initiated with victims. Institution of this recommendation should be included in the annual "Best Efforts" Report.

#### D. Description of Services.

##### (1) Information/Referral

At the earliest opportunity after detection of a crime, the responsible official of the investigative agency *shall* make reasonable and diligent efforts to inform crime victims concerning:

- (a) the place where the victim may receive emergency medical and/or social services;
- (b) compensation or restitution for which the victim may be entitled under this or any other applicable law; and the manner in which such relief<sup>9</sup> may be obtained;
- (c) the availability of public and private programs which provide counseling, treatment, and other support to the victim; and
- (d) The responsible official *shall*, to the extent deemed necessary and feasible, assist the victim in contacting the specific person or office which will provide the above services.

##### (2) Protection from Harassment/Intimidation

Consistent with the provisions of 18 U.S.C. Sections 3521-3528, the responsible official of the investigative agency *shall* make the necessary and appropriate arrangements to enable victims and witnesses to receive reasonable protection against threat, harm and intimidation from a suspected offender and persons acting in concert with or at the behest of a suspected offender.

Moreover, information on the prohibition against intimidation and harassment and the remedies therefor *shall* routinely be made available to victims and witnesses. The responsible official *shall*, if warranted, advise the component of the Justice Department having the enforcement responsibilities, (e.g. the U. S. Marshals Service), of instances involving intimidation or harassment of any victim or witness.<sup>10</sup>

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<sup>8</sup>Models for such brochures (in a variety of different languages) are available through the Office for Victims of Crime.

<sup>9</sup>See, Appendix A, "Victim Compensation Brochure" and Article VI, "Restitution".

<sup>10</sup>Civil procedures for protecting victims and witnesses against such harm and intimidation, including application for temporary restraining orders and protective orders, are set out in the 18 U.S.C. Sections 1512-1515.

(3) Consultation/Notice

During the investigation and prosecution of a crime, (if the victim or victim/witness has provided a current address or telephone number) a responsible official *shall* make diligent and reasonable efforts to consult with and provide the victim or victim/witness the earliest possible notice concerning:

(a) the status of investigation of the crime, to the extent that it is appropriate and will not interfere with the investigation, including the decision not to seek an indictment or otherwise commence a prosecution;

(b) the arrest of a suspected offender;

(c) the release or detention status of an offender or suspected offender pending judicial proceedings or the placement of the offender in a pretrial diversion program and the conditions thereof;

(d) the filing of charges against a suspected offender, or the proposed dismissal of any or all charges, including dismissal in favor of State prosecution;

(e) the scheduling, including scheduling changes and/or continuances, of each court proceeding that the victim or witness is either required to attend or entitled to attend;

(f) the terms of any negotiated plea, including the acceptance of a plea of guilty or *nolo contendere* or the rendering of a verdict after trial;

(g) the opportunity to present to the court in the presentence report, pursuant to the VWPA, a Victim Impact Statement containing information concerning any harm, including financial, social, psychological and physical harm, done to or loss suffered by the victim of the crime (See Article V, "Victim Impact Statement", and Article VII, "Child Victims' and Child Witnesses' Rights");

(h) the date set for sentencing if the offender is found guilty and the sentence imposed, and any date on which the offender will be eligible for release; and

(i) with respect to victims of violent crime and sexual abuse, the date set for sentencing and the victim's opportunity to make a statement or present any information to the court in relation to the sentence. (See Section E. Additional Rights and Enhanced Services, Subsection (2) Allocution/Statements to Court.)

(4) Secure Waiting Area

During court proceedings, responsible officials of the prosecutor's office *shall make their best efforts to ensure* that a victim is provided a waiting area removed from and out of the sight and hearing of the offender and defense witnesses.

(5) Return of Property Held as Evidence

At all times, the responsible official of the investigative agency *shall* take appropriate action to ensure that any property of a victim that is being held as evidence is maintained in good



Wednesday

JANUARY

25



# WISCONSIN

## Bank robbers set state record with holdups

BANKS GETTING NERVOUS ABOUT CRIME SPREE

# 'He-She' bank robber commits 4th holdup

Crime

Downtown banks  
hit hard by recent spree

CAMERAS GET A GLIMPSE

## Quick-acting robber hits Brookfield bank

Holdups  
rob workers  
of security

## RIGHTS OF CRIME VICTIMS

A crime victim has the following rights 42 U.S.C. Section 10606(b):

1. The right to be treated with fairness and with respect for the victim's dignity and privacy.
2. The right to be reasonably protected from the accused offender.
3. The right to be notified of court proceedings.
4. The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
5. The right to confer with the attorney for the Government in the case.
6. The right to restitution.
7. The right to information about the conviction, sentencing, imprisonment, and release of the offender.



CASE REFERRED

CHARGING DECISION

Complaint  
(Arrest Warrant)

Grand Jury

Initial Appearance

Indictment

Detention Hearing

Arraignment  
& Plea Hearing

Detained

Released

Motion Period

Change of Plea

Trial  
Prep

Presentence  
Report

Guilty

Trial

Acquittal

Sentencing

# PERSONAL CONSEQUENCES OF BEING A VICTIM

## Fear

They are afraid of leaving the bank, being in public, or being re-victimized.

## Hyper-Alertness

They find that they startle easily: they "jump" when suddenly approached by customers or when they hear loud sounds.

## Guilt

They feel that they could have done something differently.

## Anger

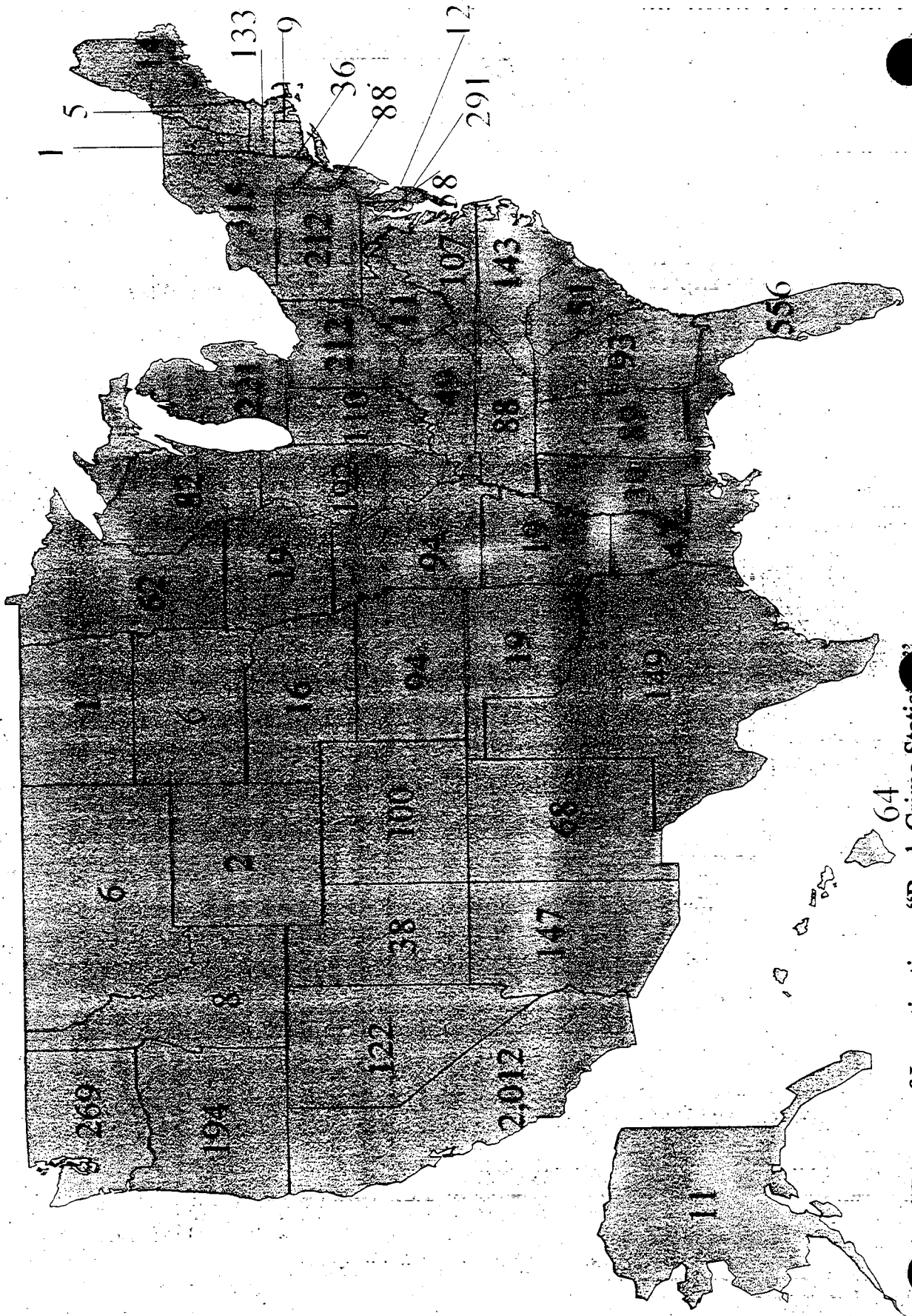
They are enraged that their life has been disrupted and that they no longer feel safe or in control.

## Isolation

They feel that they are the only ones who are having reactions to the event; they feel isolated from family and friends.

# Bank Robberies

## January 1, 1995 - December 31, 1995



Mr. Paul [redacted] is, Chairman of the Maryland Parole Commission, advises that victims and survivors send requests for parole notifications and updated victim impact statements to him about 3 months after the sentencing phase. Always give the defendant's name, court case number and inmate number if you have it available. Victims and survivors may also schedule a face-to-face meeting with parole officials.

- The Criminal Injuries Compensation Board was established to assist victims of crimes of violence who have suffered personal injuries and suffered, as a result, serious financial hardships. If you think you are eligible for compensation call or write the Criminal Injuries Compensation Board, 6776 Reisterstown Road, Suite 313, Baltimore, MD 21215, (410) 764-4214, or obtain a form from the Foundation.

## SUPPORT GROUPS FOR SURVIVORS OF HOMICIDE AND AUTOMOBILE MANSLAUGHTER

Confronting grief, anger and loss are part of the healing process. Sharing feelings with those who have had similar experiences helps crime victims to find new ways of coping and to regain a sense of control and purpose in their lives. There are support groups to meet the emotional needs of friends and family members of homicide and auto manslaughter victims throughout the state. If you wish to participate, please call the Foundation or one of the listed support groups.

### SUPPORT GROUPS AVAILABLE

Anne Arundel County, Support Group for Survivors of Homicide and Vehicular Homicide. 1st Monday of the month 7:30 p.m. sponsored by Anne Arundel County State's Attorney's Office and the Hospice of the Chesapeake, 8424 Veterans Highway, Millersville. Contact: Betty Asplund, (410) 987-2129.

Baltimore County, 2nd Monday, 7:30 p.m. Room 216, Towson United Methodist Church. Sponsored by Baltimore County State's Attorney's Office. Contact: Peggy Basham, (410) 887-6650.

SRF Calvert County, 4th Wednesday, 7:30 p.m. Health Department, Prince Frederick. Contact: Carole Henley, (410) 326-3318.

SRF Cecil County Support Group for Families and Friends of Violent Crime Victims - facilitated by the Rev. Jack Shitama, North/East United Methodist Church; for time and place, call Jack Shitama: (410) 658-2684.

SRF Charles County, Bereavement Group for families who have suffered the loss of a loved one for any cause. Contact: Rosalie Romano, (301) 932-0594 for time and location.

Family Bereavement Center, Baltimore City, Meets weekly at Board of Education Building 200 North Avenue, Room 301. Sponsored by Baltimore City State's Attorney's Office. Contact: Dr. Rosetta Graham, 1-800-525-3742.

SRF Harford County, Support Group for Families of Murdered Loved Ones, 1st Monday, 7:30 p.m. Room 8, Bel Air United Methodist Church, 21 Linwood Street & Emmerton Road, Bel Air. Contact Betty Romano: (410) 893-8939.

Montgomery County Victim Advocate Program, Support Group, meets 3rd Wednesday, 7:15-8:30 p.m., 401 Hungerford Drive, Rockville, MD. Contact Amy Morris, (301) 217-1425.

SRF Prince George's County, Support Group for Families and Friends of Homicide and Drunk Driving Victims and Support Group for Sexual Assault Victims, meet every Tuesday, 7:30 p.m., at Trinity Episcopal Church, 14519 Church Street, Upper Marlboro, MD. Contact Portia Cox or Jan Withers, SRF Office (301) 952-0063.

SRF St. Mary's County, For information Contact: Jeannie Copsey, 4 Waterview Drive, Mechanicsville, MD (301) 884-2367.

**ACKNOWLEDGEMENT**-Services provided by the Stephanie Roper Foundation are partly funded by a Grant from Prince George's County Executive and the County Council.

### To One In Sorrow

*Let me come in where you are  
weeping, friend  
And Let me take your hand.*

*I, who have known a sorrow such as  
yours, can understand.*

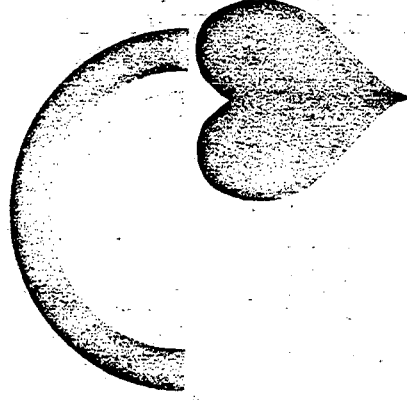
*Let me come in - I would be very still  
beside you in your grief.*

*I would not bid you cease  
your weeping, friend,  
Tears bring relief.*

*Let me come in - I would only breathe  
a prayer and hold your hand,  
For I have known a sorrow such as  
yours, and understand.*

*Grace Hall Crowell*

## The Stephanie Roper Foundation, Inc.



## A message for Victims of Crime...

14804 Pratt Street #1  
Upper Marlboro, MD 20772-3002  
(301) 952-0063  
FAX: (301) 952-2319

## WHY WE ARE HERE

1. To provide support and encouragement to victims of crime during court proceedings.
2. To ensure that the legal rights of victims are maintained.
3. To facilitate healing and resolution for the victims and survivors through support group services.

Becoming a victim of a crime is a traumatic event in your life. Whether you are a victim of a violent crime, a family member of a victim, or a victim of some other criminal offense, you have experienced a crisis.

In addition to the pain inflicted upon you by the criminal, you may experience further confusion, frustration and heartache in dealing with the criminal justice system. We at the Stephanie Roper Foundation would like to help you avoid secondary victimization by providing you with information, assistance and support *before and during* the trials in your case.

## THE STEPHANIE ROPER FOUNDATION OFFERS THE FOLLOWING SERVICES:

- assistance with all victims' rights including victim impact statements, court attendance, restitution and parole notification
- court accompaniment at trial or hearings
- support groups for victims' families and friends
- assistance with Criminal Injuries Compensation forms
- referrals for counselling and legal services
- speakers available for public presentations

## IMPORTANT REMINDERS TO VICTIMS

As a result of legislative efforts, victims of crime are finally being granted some rights and choices concerning their cases. However, very often vic-

Therefore, we URGE you to contact our office so that we can help you take full advantage of your rights. In particular we wish to point out the following:

- As a victim or survivor you have the right to remain in the courtroom during the trial.
- As a victim or witness you have the right to not reveal your address during testimony.
- As a victim or survivor you have the right to be heard at sentencing through the use of a written victim impact statement. Parole & Probation or the State's Attorney's Office may help you with this form. However, you may write your own narrative statement which can be particularly useful when describing the physical, financial and emotional effects of the crime.

In addition to a written statement, a victim or a representative may ask to orally address the judge and/or jury at the sentencing phase of a trial.

- We urge victims to make a request to the prosecutor that the court provide an order for restitution to the victim who has suffered financial losses from the crime.
- The most important advancement for victims of crime was the passage of the Maryland Constitutional Amendment in November 1994. It provides victims a right "to be notified of to attend and to be heard at a criminal justice proceeding." Please call on us for assistance.
- After the sentencing of your offender, you have a right to be notified of sentencing reconsideration, appeal, escape, parole, etc. **WE URGE YOU TO USE THESE RIGHTS THAT HAVE BEEN WON FOR YOU!** If you wish to exercise this right you must keep your address current with the following agencies: (call the Stephanie Roper Foundation for assistance: (301) 952-0063 with any of these concerns.)

1. For Notice of Sentencing Reconsideration  
State's Attorney's Office  
(who prosecuted the case)

2. For Notice of Appeals  
VICTIM ASSISTANCE UNIT  
Attorney General's Office  
200 Saint Paul Place  
Baltimore, MD 21202-2021  
(410) 576-6300  
Victim Notification - Barbara Bond  
(410) 576-6405

3. For Notice of Mandatory Release or Escape  
DIRECTOR OF CLASSIFICATION  
Division of Correction  
6776 Reisterstown Road, Suite 311  
Baltimore, MD 21215-2342  
(410) 764-4134  
Victim Notification - Debbie Neighoff  
(410) 764-5178

4. For Notice of Parole Hearing & Results,  
Meeting & Updated Victim Impact Statement  
VICTIM NOTIFICATION  
Parole Commission, Paul Davis, Chairman  
6776 Reisterstown Road  
Baltimore, MD 21215-2342  
(410) 764-4235  
Victim Notification  
(410) 764-4231

5. For Notification of Offenders Incarcerated at  
Patuxent Institution  
VICTIM NOTIFICATION  
Patuxent Institution, Joseph Henneberry,  
Director  
P.O. Box 700  
Jessup, MD 20794  
(410) 799-3400  
Victim Concerns - Dr. Richards  
(410) 799-3400, Ext. 393

6. For Notification of Offenders Found  
Insane/Not Criminally Responsible  
VICTIM NOTIFICATION  
Clifton T. Perkins Hospital  
Dr. M. Richard Fragala, Superintendent  
Dorsey Run Road  
Jessup, MD 20794  
(410) 792-4022  
Attorney - Susan Steinberg  
(410) 794-3036/7

Coping  
After  
Homicide

1863  
COURTESY Tel. 301-952-0063  
THE STEPHANIE ROPER FOUNDATION  
14804 PRATT ST #1  
UPPER MARLBORO, MD 20772

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Revised Edition, 1990

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People Assisting Victims

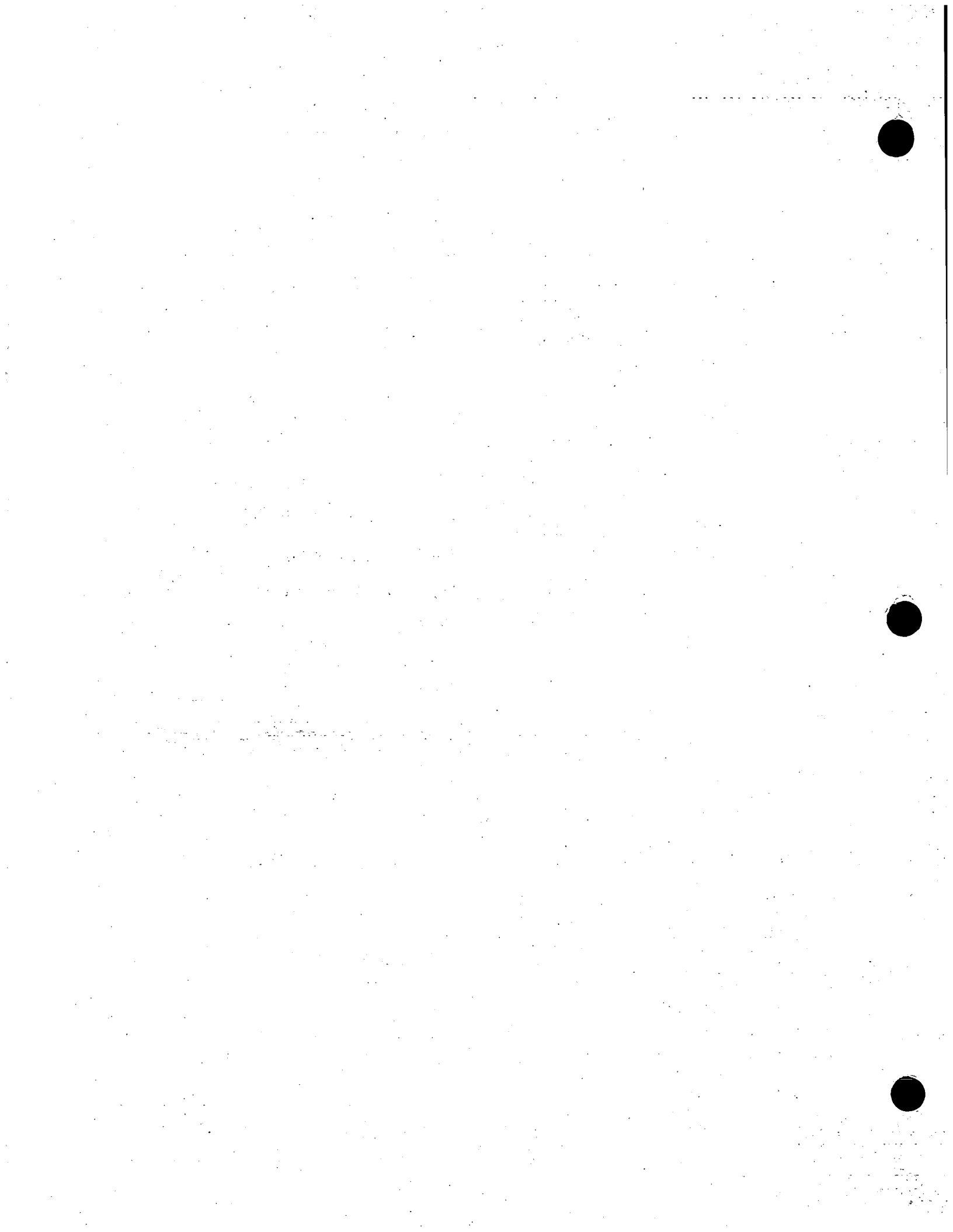
P.O. Box 53892

Fayetteville, NC 28305

*This booklet is made available through contributions from people who care about you and your well-being.*

*In loving memory of my daughter,  
Denise Minick Cveticanin  
who, along with her unborn daughter,  
Laura,  
was brutally murdered.*





## COPING AFTER HOMICIDE

When someone you love is murdered, your emotions become intensified to a much greater extent than you can imagine. You may feel as though you have been thrown into an emotional tailspin. Shock, grief/heartache, guilt/self-blame, disbelief/denial, and anger which seems to know no bounds - all seem to become entangled. You may possibly feel a loss of faith in both God and mankind. You may feel stigmatized and suffer a loneliness you have never known, all the while confused and wondering *why* this horrible tragedy occurred. At times you will wonder if anyone cares. Overwhelmed and confused, you may experience a loss of memory. Your mind seems "fragmented" and you may feel that you are losing your sanity. You will probably be depressed, impatient with yourself and others. You sometimes feel as though you have *no* emotional control. These are all *normal* reactions.

Reactions to *shock* vary with the individual. The shock may be so great that, unable to absorb it, you may seem in a daze with no outwardly visible reaction. You may feel totally helpless and look to others for direction. Although there is no way to determine exactly how long this "zombie" stage will last, it will pass in time.

The grief and heartache ordinarily associated with the death of a loved one are compounded when the loved one is lost through violence. You will be wracked with emotional pain, but don't try to conceal your emotions. To suppress one's grief and heartache not only delays the healing process, it can result in a deep, debilitating depression as well as physical illness. You have a right to grieve - don't stifle it.

"If only I . . .," "Why didn't I . . .?" are common reactions among survivors of homicide victims as they try to rationalize the entire episode. Do not blame yourself. It was not your fault.

An all-consuming anger may well up within you with no warning. There is nothing wrong with you, this is a normal reaction. After all, you have endured the ultimate violation. You may even fantasize means of seeking revenge. This is neither uncommon nor unhealthy, and it may even help. You will likely experience such anger repeatedly as you go through the trial process (which we will discuss later).

We, as a society want to know why an incident occurs. Too often, there is no rational answer to this question. Lack of understanding coupled with an inane desire to know why often results in stigmatizing the survivors. This, of course, creates even greater emotional turmoil for survivors.

Sadly you will learn that the crime is only the first in a seemingly endless series of victimizations. Society tends to focus attention on the criminal at the same time ignoring the victim. This unfortunate fact intensifies the victim's distress, confusion, anger and pain.

At times you may feel the urge to cry out, "Hey, what about me?" At other times you may ask yourself, "Doesn't *anybody* care?" You feel victimized by public

apathy, and you are frequently hurt by the insensitivity of others. You soon learn that those who have not suffered the trauma of victimization simply cannot understand. They don't realize that the victim is so traumatized that a simple courtesy shown becomes an act of caring from the victim's perspective.

Your concept of friends may be altered. Friends who were very supportive in the beginning may avoid you. It is crucial to share your grief and you may want to tell your story repeatedly, but your friends may not be able to deal with the details of the tragedy. Your friends still love you, but they may feel uncomfortable around you. Your feeling of isolation intensifies as you suffer that which you perceive as rejection. Your presence is a constant reminder to your friends that they too, are vulnerable. It is much easier for them to ignore their own vulnerability when you aren't around. Even though your intellect makes you understand, your emotions seem to cry out the ever-present question: "Doesn't anybody care?"

You may find it helpful to keep a diary. Write your true feelings, whatever they may be. Not only can keeping a diary be therapeutic, it may also help you remember details later which otherwise might be difficult to recall. This will prove to be especially beneficial as the case goes to trial.

When a murder occurs within a family, one might expect it would unite the family more closely. Such is not the case for many times, murder separates a family both physically and emotionally. We each grieve in our own way, and we learn to cope in our own way. Many times it is so difficult for family members to cope with their own grief that they simply do not have the ability to support other members of the family. Often family members are reluctant to discuss the murder among themselves.

The personalities of family members may change dramatically. Victims develop an acute sense of awareness which may be viewed by others as paranoia. Social inhibitions are not uncommon among victims of crime, including those who were once considered extroverts. There are those who may resort to the use of alcohol or drugs in their effort to cope, thus compounding their problems. A student, preoccupied with the murder, may seem to lose interest in school when in reality, the student is unable to concentrate. The same considerations should be accorded to youngsters as adults.

Many survivors agree that the victim's birthday, holidays and anniversaries trigger a resurgence of pain. Hopefully, as you go through the healing process, you will discover a way to lessen the pain of these special days. You may wish to indulge yourself in a way that your loved one would have wanted for you. Do those things which make you most comfortable.

Society can be very cruel. Due to their lack of understanding, people may say inappropriate things to you, things which tend to victimize you further. Implications that somehow the victim's behavior contributed to his own death are devastating to the survivor. Equally offensive are remarks such as "It's over now, put it behind you," "You should be over that by now, it's time to get on with your life," etc.

Unfortunately, you may be both hurt and angered by the religious community. There are many ministries which conduct religious services for offenders, and provide aid and solace to their families as well. They seem ever ready to help the criminal even though he is a repeat offender; however most churches provide virtually nothing for survivors of

homicide victims. We do not condemn this practice even though lack of support from the religious community greatly intensifies the overwhelming emotional upheaval for the survivor of a homicide victim. We encourage the religious community to develop a sensitivity to the plight of victims.

There are those of the cloth who may tell you it was God's will and urge you to forgive the murderer. Remarks of this type "re-victimize" the survivor by adding the feeling of unworthiness to the existing emotional turmoil. When the victim's perception of God and religion has already been adversely affected by the crime, such remarks are devastating and can destroy a victim's faith. Try not to be impatient with yourself. The trauma of victimization often takes much longer to work through than you may now realize, for not only are your emotions involved, your emotional state affects your physical state as well. You may suffer a loss of appetite. You may feel tired and listless and sometimes a very simple chore becomes a seemingly insurmountable task.

During this time the need for food and exercise may be totally forgotten. Take time out for yourself. Try to exercise at least minimally. Even though you may not be hungry, try to eat a balanced diet. You may feel the need for more rest than usual. Don't push yourself, rest when *you* feel like it, but for your own good, do not use rest as an excuse to "escape." If you find it difficult to stay up after you have had adequate rest, you may wish to see a therapist or your doctor. You may feel that tranquilizers and/or alcohol would provide a much-needed interval of rest and/or relief, but *remember*, their use will delay the healing process and many times they affect you adversely.

Unbelievable to you at this point is the fact that there is something positive in everything that happens. Look for it! If you maximize that which is positive, even though it may seem somewhat insignificant, you will find that it lessens the pain.

Everyone must cope in his own way, but you will find it will help your own recovery if you become involved with others. **do not isolate yourself.** It is particularly helpful to you if you can channel your strong emotions toward something constructive.

Most victims are in for a rude awakening as they progress through the criminal justice system. Naive, we look to the courts as the place where the criminal will be duly punished for the crime. We go to court expecting justice - but alas - too many times our confidence in the justice system is totally destroyed as we learn that the laws seem to be for the protection of the criminal. You will probably experience a more intense anger than you previously thought possible as you become painfully aware that "victims' rights" is simply surface rhetoric. Victims have no status and seemingly, are only incidental to the crime.

On occasion, the guilty person may be released on a technicality. There may be a plea bargain arrangement wherein the criminal pleads guilty to a lesser charge. More often than not, such an arrangement seems grossly unfair and you, the victim, may be outraged. The so-called "fair trial" will seem unfair to you. Evidence, which you think is important, may be suppressed because it is deemed highly prejudicial to the defendant. In spite of your fury, outwardly you must remain stoic. Your conduct in the courtroom may determine whether or not you can remain throughout the trial (see p. 11). Regardless of

the outcome of the trial, you will not feel satisfied, for in any event, it is you who will serve a life sentence.

You may feel as though the defense attorney is your personal enemy. Contrary to your feelings at the time, the defense attorney holds no grudge against you. He is sworn to zealously defend his client, regardless of the offense. In so doing, it is his obligation to try to destroy the credibility of the witnesses for the prosecution, including you.

If, on the other hand, the defense attorney does not adequately defend his client, the court of appeals may declare a mistrial and order the case to be tried again. Absent the shock which may have protected you emotionally during the first trial, a retrial could be far more emotionally damaging. Realizing this, you can understand wherein it is to your advantage for the defense attorney to represent his client to the best of his ability. Because it is sometimes difficult to separate the emotions from the intellect, it may help you to curtail your anger if you mentally remind yourself that the defense attorney is simply performing his duty.

You have experienced an ordeal which has altered your life permanently. Your sense of awareness has been intensified, your faith in mankind has been shattered. Those things which may once have been of major importance to you may now seem trivial, because you have already suffered the ultimate! You have learned first-hand the extent to which our laws protect the innocent. You have also learned a kind of sensitivity which perhaps you never knew before.



Although it may seem doubtful to you now, in time your pain will subside, and you will start to rebuild your life. You will laugh again and find joy in the unexpected. You will go on with your life. You will cherish good memories of your loved one, for ***you are a survivor!***

For the survivors of unsolved murders, the healing process may never be complete. The questions "who?" and "why?" are always with you. Fear and anger are constant companions. You may possibly view everyone you encounter as a potential murderer and have great difficulty coping with the day-to-day activities life seems to require of us all. It is our sincere desire that your case will soon be resolved and that your fears will be alleviated.



## HOW TO BE A BETTER WITNESS

**As a witness, think carefully through the case and your own testimony. Picture the scene of the crime, everything you saw and heard - and exactly what happened. Be prepared to answer questions accurately and to the best of your knowledge.**

**Be prepared.** As you discuss your testimony with the prosecutor prior to the trial, let him know if there are any areas you perceive as "problem areas." Your conference with the prosecutor will serve as a refresher and help prepare you for the trial.

**Be totally honest.** Tell only the facts as you know them, simply and succinctly, and avoid appearing opinionated.

**Maintain your composure.** Do not appear impatient. If counsel objects to a question, wait for the judge's ruling before you continue to talk. If the objection is sustained, you must remain silent; if the objection is overruled, you may continue speaking. It is imperative that you remain calm and courteous. Any indication of anger may diminish the impact of your testimony.

**Speak distinctly and audibly.** Face the jury, the triers of the fact, as you testify and avoid appearing "shifty-eyed." Speak clearly so

you are easily heard by the jury. **Do not** merely nod your head in response to a question.

**Dress conservatively and neatly.** Weight given to the testimony can be decreased if the judge or jury is offended by your appearance. Stand upright while taking the oath, pay attention and say "I do" clearly.

**Be on time.** If you need a subpoena to justify your absence to your employer, be sure to tell the attorney ahead of time so one can be prepared.

**Keep the role of the defense attorney in mind at all times, and listen carefully to the questions asked of you.**

**Never speculate nor guess.** If you do not understand the question, ask that it be repeated or rephrased until you do understand. If you do not know the answer, say so. Give positive, definite answers when you clearly remember what happened and avoid such phrases as "I think."

**Take your time.** Think through the question asked, and **do not** feel pressured to give a snap answer.

**Answer the question that is asked of you and then stop.** Do not volunteer information not actually asked of you.

**If you can not answer a question with a simple "yes sir" or "no sir," you have the right to ask the judge's permission to explain.** Wait for his response before you continue to talk.

**"Have you discussed this case with anyone?"** Do not forget your conversation with the prosecutor and/or a member of his staff. Answer very frankly if you have talked with anyone and state who, if asked.

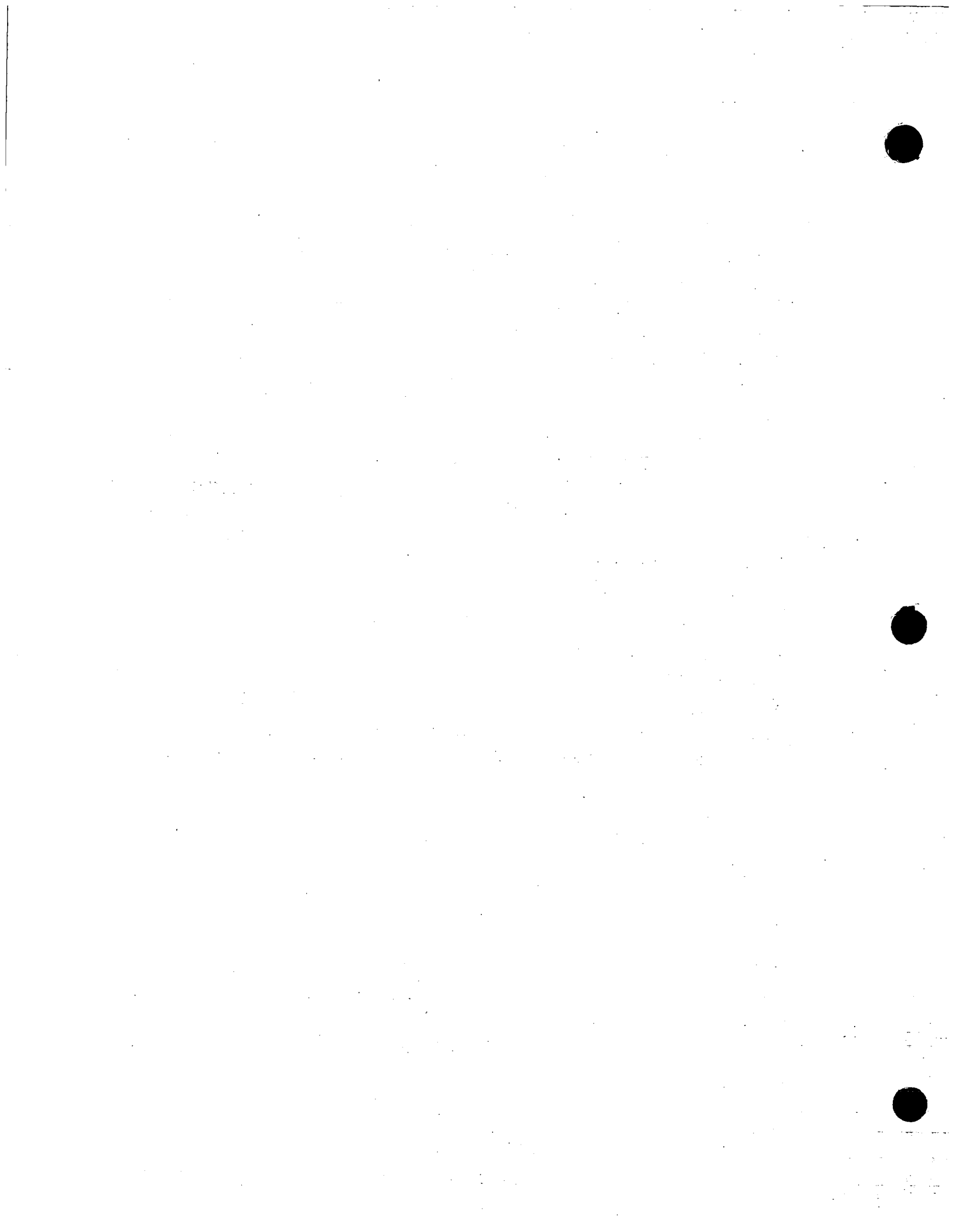
**When asked to identify the defendant,** look at him directly and briefly state his sex, describe his clothing and where he is sitting in the courtroom.

**Appropriate conduct** should be maintained at all times in order to assure credibility on the stand. Jurors and attorneys may be observing you while in the hall and during breaks. It is not appropriate to speak to a juror, and it is wise to avoid eye contact or smiles at jurors during a break.

**Do not be intimidated.** You are extremely valuable as a witness because your testimony will affect the outcome of the trial. Don't be afraid to look the jury in the eye when you are telling your story.

As you rebuild your life, we strongly encourage you to reach out to other victims. You will find it helps the healing process to share experiences with those who understand. Examine the laws in your state and learn what you can do toward balancing the scales of justice. What greater tribute could you pay to your loved one than to work for justice? After all, **VICTIMS DESERVE JUSTICE TOO!**

For additional information pertaining to the criminal justice system, see "The Victim Goes To Court," also available from People Assisting Victims (see address inside front cover).



# The Stephanie Roper Committee, Inc.

4804 Pratt Street #1, Upper Marlboro, Maryland 20772-3002  
Phone: (301) 952-0063 / FAX: (301) 952-2319

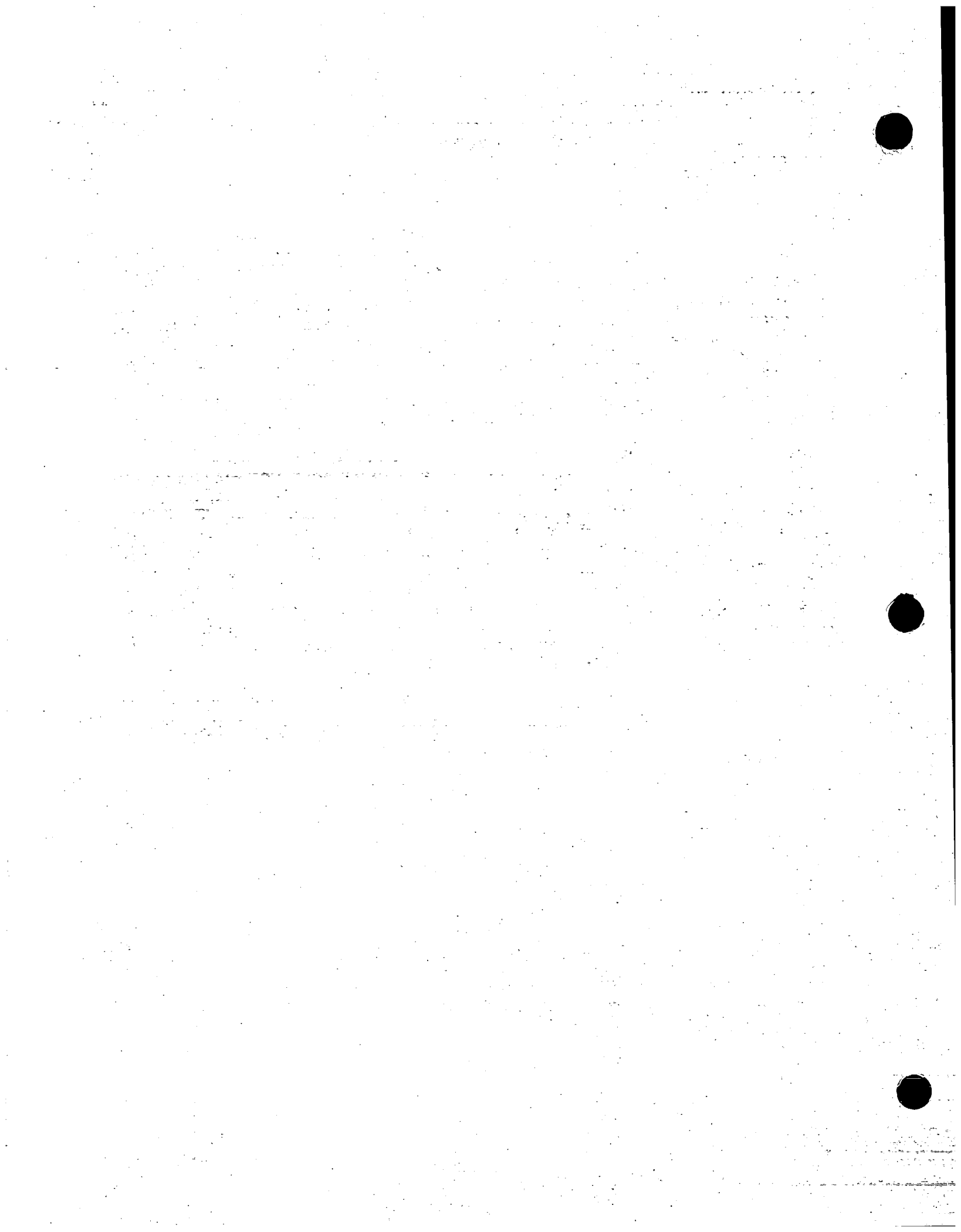


ROBERTA ROPER is the founder and director of the Stephanie Roper Committee and Foundation, Inc. Following the brutal murder of their oldest child, Stephanie, in April, 1982, Roberta and Vince Roper founded the Committee and Foundation, a non-profit, all volunteer advocacy and assistance organization that is nationally recognized as an effective voice for victims of criminal violence. The Committee advocates for victims' rights and services in Maryland, and the Foundation provides information, assistance, court accompaniment, and free peer support groups for families and friends of homicide and drunk driving victims.

Since 1982, Mrs. Roper has actively participated in a wide variety of victims' services, assistance and advisory groups. She currently chairs Maryland's State Board of Victim Services, is co-chair of the National Victims' Constitutional Amendment Network, and co-chaired the Maryland Coalition for a Constitutional Amendment for Crime Victims' Rights from 1988-1994. Roberta has been a member and technical resource for the National Organization for Victim Assistance and the National Victim Center, and was recently appointed to the Maryland Commission on Criminal Sentencing Policy. She has been recognized by Presidents Reagan (1988) and Clinton (1994) and received their awards for outstanding service to victims of crime.

*"one person can make a difference and every person should try ---"*

*Stephanie Roper*



# The Stephanie Roper Foundation, Inc.

804 Pratt Street #1, Upper Marlboro, Maryland 20772-3002  
Phone: (301) 952-0063 / FAX: (301) 952-2319



## OUR MESSAGE TO VICTIMS AND THEIR FAMILIES

Becoming a victim of a crime is a traumatic event in your life. Whether you are a victim of a violent crime, a family member of a victim, or a victim of some other criminal offense, you have experienced a crisis. In addition to the pain inflicted upon you by the criminal, you may experience further confusion, frustration and heartache in dealing with the criminal justice system.

We at the Stephanie Roper Foundation (SRF) would like to help you avoid secondary victimization by providing you with information, assistance and support throughout your case proceedings. We help during: 1) pre-arrest; 2) pre-indictment; 3) in cases of no arrest; 4) during trial; 5) post sentencing; 6) reconsideration of sentences; 7) appeals; 8) parole. This help consists of:

- ... assistance with using all victims' rights that apply to you
- ... a court companion during trial
- ... support groups for victims, families and friends
- ... referrals for therapeutic counseling
- ... assistance with criminal injury compensation
- ... legal referrals for civil action.

We also want to warn you that the DEFENSE may try to contact you. Remember, you are under NO OBLIGATION to speak to them! To do so may be damaging to your case. If an unfamiliar person calls you and wants to discuss your case, contact your state's attorney first.

Please call us BEFORE your case goes to trial and let us know your needs. We encourage you to participate in our support groups when you are ready to do so. Call us with any question or concern.

Crime victims or families are urged to call us BEFORE trial so that:

- 1) they may be informed and involved in the trial process as much as they wish and to the extent that they are allowed;

*"one person can make a difference and every person should try ---"*

*Stephanie Roper*



- 2) they understand Maryland victims' rights laws and make choices appropriate for them;
- 3) they express their wishes for information and participation to prosecutors (e.g., victim impact statements at sentencing; plea agreements; restitution orders etc.);
- 4) they may be prepared for the courtroom experience;
- 5) they may be prepared for dealing with the news media;
- 6) they may be assisted in dealing with the Parole Commission;
- 7) their recovery and healing is aided through our self-help support groups;
- 8) they may channel their energies into positive action for themselves and others.

- 
- \* You will find our brochure enclosed listing support groups available in several counties. Please call our office if you plan to attend the SRF support group meeting in Prince George's County.
  - \* You should receive a letter from the State's Attorney office for your case notifying you of your rights and trial dates. Please call us if you need any assistance.

# EXPERIENCES OF GRIEF

Grief is a normal and natural reaction to the death of a loved one. Most of us are not prepared for the long journey of grief which is sometimes devastating, frightening, and often lonely. We may think, do, and say things that are very unlike us. There seems to be no respite, no end to the intense feelings that we experience.

Grief has been likened to a raw open wound. With great care it eventually will heal but there will always be a scar. Life will never be the same but eventually you will get better.

The experiences of grief have been compared to enduring a fierce storm at sea. The waves are peaked and close together *uuu*. Eventually the sea becomes calmer *~~~~~*, but occasionally the storm regroups, strengthening without any warning. For several hours, days, or weeks, you may not feel grief; then suddenly you meet someone, or see something, or hear something, and grief resumes. It seems as if you are taking one step forward and two back.

Grief has its common and its unique sides. Although it is a universal experience, no two people grieve the same, even in the same family. Like a snowflake or a fingerprint, each person's grief has characteristics all its own.

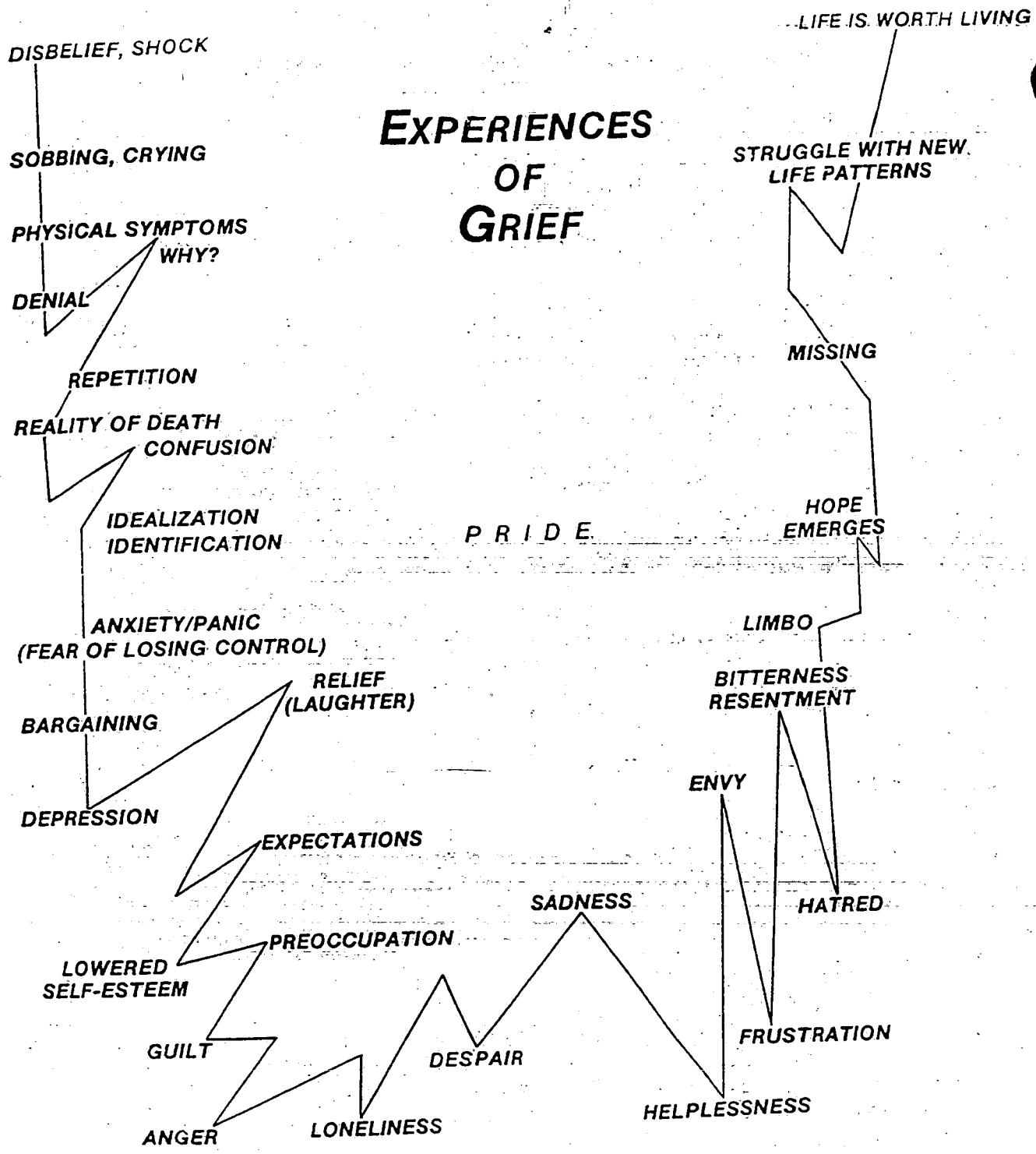
It is important to understand some of the following concepts about grief.

**GRIEF WORK:** The expression "grief work" is very true. It may be the hardest work that you will ever perform. It is draining.

**CONTROL:** We CANNOT control the feelings that arise within us. These feelings come from deep inside, but we can choose what to do with them. We can accept or reject them. To deny only prolongs our grief. Remember, what we do determines whether we remain in our grief or survive. Feelings are not bad or wrong. They should be recognized and faced honestly.

**CHOICES:** About grief: there are no choices, you MUST go through it. The expression of grief is essential for good emotional and physical health even though it is painful and difficult. There are no easy answers or short cuts, no way under, over, or around your grief. Although grief may hurt desperately, you must go through it.

**BE PATIENT WITH YOURSELF. RECOVERING FROM GRIEF TAKES TIME.**



It is important to understand the various experiences of grief. The graph gives the picture of grief, but it may be misleading. Everyone does not necessarily go through every experience, nor do they go through them in any set order. Each person has his or her own timetable and his or her own style of grief. You may struggle with several feelings at the same time. The depth and duration of each experience is different for everyone. You may experience a feeling briefly, intermittently or struggle with it daily. Understanding the various phases helps you to cope. Knowing that others have gone through this pain and have eventually been able to reinvest themselves in life gives one a sense of HOPE.

**MAJOR DECISIONS:** It is strongly suggested not to make major decisions (such as moving, money matter, etc.) unless absolutely necessary during the early stages of grief when judgment is cloudy. The conventional wisdom, "Never act in haste" was never more applicable.

**LISTENER(S):** Find someone who will listen. Talking is therapy.

**GRIEF HAS NO TIMETABLE:** Grief often takes much longer than the bereaved or the people in their lives expect. It helps to take one hour, one day at a time.

**REMEMBER:** People have a natural inclination to recover. Eventually you'll look back and realize you weren't going crazy...you were grieving.

**DISBELIEF:** "It can't be true," You keep thinking that any minute you will wake up from a bad dream/nightmare. Sometimes you can't cry at first because you don't really believe it happened. Often people will comment on "How well you are doing." Inside you know that the reason you appear to be doing so well is that you just don't believe it.

**SHOCK:** Shock is nature's way of softening the blow. It serves as a cushion - giving you time to absorb the fact of your loss. You hear the words, but do not comprehend the full impact. Emotions seem frozen. You feel disoriented, restless, numb, bewildered, stunned and unable to think. It takes everything just to function. You go through the motions like a robot and feel as if you are an observer watching this happen to someone else.

**SOBBING/CRYING:** Sobbing means to weep aloud with short, gasping breaths. Sobbing is an outlet for the deep strong emotions that accompany the death of a loved one. Some people cry often and cry a lot. Others push down their tears, but this may lead to psychological or physical problems. It is helpful to cry - to release all that pent-up emotion. Cry alone or with others - but take time to cry. The book, When going to pieces holds you together, says it very well. The advice "don't cry" is ill advised. Accept the grief - don't try to be brave and fight it. At first, you need to take time to grieve daily. Looking at pictures/mementos, playing special music, may aid in releasing pent-up tears. Men can and should cry. Crying is a good model for children. When adults cry, children learn that it is "okay" to cry and to express their feelings. Children learn to share their

feelings instead of suppressing them and struggling alone.

**PHYSICAL SYMPTOMS:** You may experience some of the following: lack or increase of appetite; sleeplessness or oversleeping; knot or emptiness in pit of stomach; tightness in throat; shaky legs; headaches; stomach aches; sighing to get your breath; trembling; chills; fatigue; chest pains; general achiness; difficulty swallowing and/or speaking; digestive disorders (indigestion, nausea, diarrhea); feeling weak/faint; tension; slower in speech/movement; temporary paralysis of limb or sight. It helps to understand some of these symptoms may be a part of grief and emerge any time. It is advisable to have a physical checkup to make sure that there is not another cause for your physical ailments. Take care of yourself by establishing a simple routine (good nutrition, adequate rest and time for relaxation). Exercise aids sleep and may lighten depression.

**DENIAL:** The phone will ring, the door opens, or you will see someone, and at first you think that it is your loved one. You may subconsciously be searching for your loved one when out in a crowd. It takes time to believe what happened. Even though you know the fact of death, you continue not to really believe it. Many habits continue, such as setting the table for the same number, expecting your loved one to come home at the regular time, buying his/her favorite food, watching a T.V. program and saying: "I've got to tell him/her what happened." This shows our unconscious denial of their death. Denial provides a buffer zone from the reality of what has happened.

**WHY?:** Often we keep asking "WHY?" "Why did he/she have to die?" We don't necessarily expect an answer, but the question "WHY" seems to need to be asked repeatedly in an effort to make sense of the loss. The question may be unanswered, but it is important to ask the question until we can take the step of letting the question go. Rabbi Kushner states in his book WHY DO BAD THINGS HAPPEN TO GOOD PEOPLE that often the "why" is not a question, but a cry of pain.

**REPETITION:** You may find that you are saying almost the same things to the same people. The same thoughts keep running through your head. In saying the words and hearing ourselves over and over again, it helps us to believe what has happened. It is important to find friends who will listen, especially someone who has experienced a similar sorrow.

**REALITY OF DEATH:** "It's true." "It really happened."  
This is a frightening time. We feel that we are getting worse. Often this happens after people who have been so helpful have left. It seems as if we are going backwards. Actually, this reality has

to "hit." The best advice is to "lean into the pain." As much as we don't want to hurt, we must.

**CONFUSION:** "I can't think." "I forget what I am saying halfway through a sentence." The simplest decisions seem impossible... It is difficult to concentrate and follow through on things. You feel disorganized and error-prone. Bereaved often feel impatient and want to do something, but feel unclear as to what to do. Sometimes motivation to do something may be very low and basic survival needs may not even be met. Confusion abounds because you are using all your emotional energy to grieve and there is very little left over for anything else. The weariness due to grief may affect thinking and concentration.

**IDEALIZATION:** At first, you may only focus on the best qualities -seeing your loved one as perfect. It is a very normal reaction, but it is important to be aware of others in the family. They may compare themselves to the "perfect" loved one and feel that they are not as loved - that it would be better if they had died instead.

**IDENTIFICATION:** Many people seek to identify with their loved one who has died by wearing their clothes, taking up a sport they liked, planning to follow in their footsteps, etc. It is a way of "staying close."

**ANXIETY/PANIC (Fear of Losing Control):** At first you may fear being alone. You worry about the future and may be afraid that something else will happen to another loved one. You often panic at the approach of special dates (birthday, holidays, anniversary of the death). Usually they are not as difficult as the days prior to the special days. This is due to our unbelievable panic and apprehension. You may feel as if you are "GOING CRAZY." It may seem as if you are losing control of yourself. Usually we don't tell anyone that we think we are "going insane." Sometimes bereaved have thoughts of suicide as the only way to escape the physical and emotional pain. We panic at the prospect of "always feeling like this." We feel that we should be doing better and panic when we don't. Our situation may seem hopeless and our thinking becomes jumbled. Panic is normal. If panic seems intolerable, you need to do something about it. Talking about our feelings, getting busy with something, sobbing, screaming, exercise - all may help to release the "panicky" feelings. Emotional and physical fatigue contribute to our panic. Good nutrition and rest are vital.

**BARGAINING:** You want "things to be as they were." You may hope that just wishing will bring back the person. You may try to bargain with God "that things will be different;" that you will try

to be a better person if only the loved one can be alive again.

**DEPRESSION:** It is a feeling of being in the "pits." You hurt so much. Sometimes you just don't care about anything. You just sit. Mornings are terrible. So is the time and the day of the week that your loved one died. It's an effort just to get out of bed, to shop, or fix a simple meal. Talk things over with a friend who cares and will listen. This is one action that may help a person not to become seriously depressed. Talking to others in a support group of bereaved people who know what you are going through also helps a great deal.

**SEVERE DEPRESSION:** It is a feeling of deep, overwhelming sadness and hopelessness that lasts for longer than two weeks. Other symptoms may be: loss of appetite; insomnia; inability to enjoy anything; anxious or restless behavior; apathy; preoccupation with thoughts of suicide; wishing to be dead; loss of interest in sex; difficulty in concentration and making decisions; poor memory; irritability; feelings of worthlessness; inability to cry even if one desperately needs and wants to; intense guilt and withdrawal from relatives and friends. It is important for bereaved people not to become alarmed, because everyone experiences some or all of these symptoms at some time. If six or more of these symptoms are severe and continue over an extended period of time (so that pain and problems outweigh pleasure much of the time), then it would be advisable to get professional help.

**RELIEF (Laughter):** This phase comes and goes. Often after the reality "hits," or after a particularly troublesome time, you feel better and may even think that the difficult times are over. There is a sense of great relief at no longer feeling down. Appreciate the relief ... the grief will return soon enough. It is helpful to recall the fun times. Wholesome fun and laughter are beneficial. It is not being disloyal to our loved one to enjoy life. In fact, plan things to which you can look forward. Having a sense of humor is often mentioned by bereaved as being helpful.

**EXPECTATIONS:** We often expect too much of ourselves. We want to handle the grief better and more quickly than is humanly possible. Submerging our feelings is very detrimental, because we still have to face these feelings eventually. The expectations of others, "You must be over your grief by now," only add to our burden. Often we will expect that after the holidays, or after some special day, we will feel "much better." This kind of expectation only hinders the grief process. It is more helpful not to have a timetable of how we should feel, or when we will get better. Taking one day at a time, or half a day, or one hour at a time is more realistic.

**LOWERED SELF-ESTEEM:** A bereaved person's confidence

is often undermined. In a study on self-esteem using a scale of 100, it was found that an average person's self-esteem was in the 70's and generally a bereaved person's was in the teens. Understanding the impact of grief on your self-esteem may help you find ways of coping.

**PREOCCUPATION:** Your loved one who has died may be in your thoughts constantly. You may think of nothing but the loss. You may even dream of your loved one, or be preoccupied with his/her image. Even at work, church, doing the dishes -- in fact, no matter what you are doing -- you may find that part of your thoughts are always about your loved one. The intensity of this preoccupation usually lessens with time.

**GUILT:** Many people are tortured by "if onlys," and "what ifs." "If only I had called;" "If only we hadn't let him/her take the car that night;" or "If only I had taken time to listen and visit." We tend to blame ourselves for something we did/didn't do that may have contributed to the death, or for things that we wish we had done for our loved one. Feelings of guilt are normal, though often not realistic. It is best not to push down the guilt. Talk about it until you can let it go. Hopefully, in time, you will realize that you did the best you could under the circumstances. None of us are perfect. The past is behind us. All we can do with guilt is to learn from it for the other people in our lives. When the death is by suicide, it is especially important to remember we can't control the behavior of another person.

**ANGER:** Anger may be directed at ourselves; others (including family members, spouse, doctors, nurses, person who caused accident); the person who died; God; or we may experience a general irritability. We may feel angry toward people who push us to accept our loss too soon, or who pretend that nothing happened. Anger is normal. Pushing down anger is harmful and may cause things like ulcers, high blood pressure, or depression. Unacknowledged anger may be directed at innocent people and unrelated events. It will come out one way or another. It is often difficult to admit being angry. Erroneously we may think, "nice people don't get angry." It is important to recognize our anger. It is helpful to find ways to express our anger, such as screaming in a private place, walking, swimming, aerobic classes, tennis, golf -- even installing a punching bag in our home. Talking about our anger also helps us to define, understand, and learn how to handle it. To suppress anger can lead to deeper than normal depression and bitterness. It is important to acknowledge our anger and to take steps to handle it.

**LONELINESS:** After the initial help, relatives/friends usually pick up their own lives and we are often left to deal with



our grief alone. Co-workers, friends, neighbors and sometimes even family may avoid us or change the subject. Some friends withdraw, because they are hurting, and do not know how to help us. We often become isolated in our grief. The widowed often say, "I not only lost my spouse, but my friends as well." In reality, few people are able to help or to understand. Support groups can be helpful. Some aspects of grief cannot be totally shared, even in the same family. It is difficult for husbands and wives to help each other. As Harriett Schiff, author of *THE BEREAVED PARENT*, states: "It is difficult to lean on someone who is already doubled over in pain." Especially at first when we are hurting so much, we realize that we are not much fun for others to be around. When others have all their loved ones alive, it makes us feel even lonelier. We may feel intense loneliness due to the absence of our loved one, because we are unable to share thoughts and feelings, to touch, to be understood. We feel empty without our loved one.

**DESPAIR:** "How can I go on?" You may come to the point where the agony seems intolerable. You can't bear it -- you think that you won't be able to survive. Your hopes/dreams are dashed. It may seem as if there would be little difference if you lived or died. You may have suicidal thoughts; feelings of desperation, despondency, pessimism and loss of all hope seem to surround you. If you are a smoker you may smoke more than ever due to nervousness, or to an attitude that you don't care if you ever take care of yourself again. Sometimes it is blackest before the burden of grief begins to lift. Talk to someone who has made it through grief.

**SADNESS:** We miss our loved one and feel deprived of his/her presence. We may feel unhappy, inconsolable, distressed, sorrowful, dejected and heartbroken. These feelings seem to pervade our life.

**HELPLESSNESS:** "What am I going to do?" We feel helpless about our feelings ... our grief. It seems as if we are unable to help ourselves to cope, or to get better. We do not seem to be capable of aiding other family members. We may feel self-pity. Although we realize that we had no control over what happened, we feel a sense of powerlessness at not being able to prevent it.

**ENVY:** You may feel jealous of people who still have their loved ones to enjoy. With a child's death, dreams for their future are gone. This pertains to college, job, wedding, grandchildren -- things you would have shared together. When a spouse dies, you envy others watching their children/grandchildren grow up and enjoying retirement together.

**FRUSTATION:** Many frustrations are a part of our grief. "Why am I feeling so upset for so long?" We become so disappointed with ourselves that we are not coping as well as we think we should. So many impulses, thoughts, feelings and actions that had become habits are stopped in mid-course. We are left with these unfulfilled emotions, desires and thoughts buzzing about in our heads or sitting our stomachs.

**RESENTMENT/BITTERNESS/HATRED:** Bereaved people often feel resentful about the death and their changed circumstances. Sometimes there is a (sub) conscious hostility toward others whose families are still intact. Some bereaved feel hatred toward those responsible for the death. These bitter feelings should be recognized and worked on, or the bitterness could last for many years. Hatred and bitterness drain you of energy and may be destructive to your health and relationships. When these feelings are left unattended, healing becomes blocked.

**LIMBO:** Eventually we may reach an in-between point between the reality of death and the point where life seems worthwhile again. We may feel a little better at last, but be uncertain of what to do next. It may take much longer than we would like before our zest for living returns. We often live behind a facade -- masking our feelings and saying "we are fine."

**HOPE EMERGES:** You realize that your grief is softening. At first the pain was with you constantly. Now the pain of grief is briefer and comes less frequently. The good days outbalance the bad days. You feel encouraged that you will get better. Things like shopping (which had been so painful before), painting the living room, looking forward to events, etc., all become part of your life again. Once again you are effective at work and home, able to make decisions and handle problems. Generally you are able to sleep and eat as you did before. You are able to care about others. You begin to realize that you are moving forward and can once again enjoy life. You smile and laugh once again and are rewarded with the smiles of family, friends and strangers.

**MISSING:** You will always miss your loved one. Special family events, such as holidays, birthdays, weddings, anniversaries, even a song or a special TV program, will trigger the feeling of longing for your loved one. Seeing other families enjoying special events "that might have been for you" also deepens your feeling of yearning. You can't help but wish your loved one were alive. You miss countless things that were special about your relationship... a hug, a kiss, a smile, a phone call, or hearing them say "I Love You," or "Thank You." For some people, when there was a special relationship, the missing can be more acute. If relatives do not live at home, they may find coming home for a visit especially

difficult. Their feelings of missing, anger, guilt, etc., may be intensified. The reality of the death is more believable at home where their loved one is undeniably missing.

**STRUGGLE WITH NEW LIFE PATTERNS:** You realize that you have a choice. You can rebuild a new life. It will be different without your loved one, but life can be enjoyed again. It is important to seek meaning in living. Learn how to make happiness happen in your life. It is estimated that between 70% and 90% of marriages where a child has died become endangered and end in separation and/or divorce. It is important to be aware of such statistics and to renew the marriage. You need to reinvest in work, activities and friends. New friends can be found among other bereaved. You may find it necessary or helpful to move, find a job, do volunteer work, join a support group, etc. Be open to renewing familiar patterns and friendships, but be ready to try new ways of living.

**LIFE IS WORTH LIVING:** Eventually we are able to think and talk about our loved one with happiness and a sense of peace. We have learned to accept the death and can see options and possibilities for the future. We may experience renewed meaning in life. There is the possibility of emotional, spiritual and personal growth. Often we become a different person -- stronger, more involved, wiser, more compassionate, concerned, understanding and aware. Our loved ones have entered a beautiful new life without pain and problems. We will be together someday. Meanwhile, they would want us to live, love and appreciate this life and the people in our life to the fullest.

**PRIDE:** This feeling was not listed on the original graph and yet for many of us it greatly affected how we handled our grief. It is placed in the middle of the graph to show how it can negatively color so many other experiences of grief. For many of us, we are too "proud" to ask for or accept help. When asked how we are feeling we say "fine" when in reality we are falling apart inside. We are apt to think "I can do it by myself," not realizing how unprepared we are for the death of a loved one. Sharing such deep grief does help us to cope and understand. The verb "be proud" means to hold one's self high, to turn one's head. Bereaved so often do this to overcompensate for how really low they feel. We are stubborn about letting anyone know how we feel. This makes it difficult for others to give us the help we so desperately need. We should consider if our grief is being complicated by our PRIDE, and if so work on ourselves to ask for and accept help.

# The Stephanie Roper Committee, Inc.

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## HISTORY OF THE BILLS SUPPORTED BY THE STEPHANIE ROPER COMMITTEE THAT HAVE BECOME LAW (SRC Priorities Designated with an "\*")

- 1983 - \* ALCOHOL AND DRUGS Chapter 296, Laws of Maryland, 1983 (HB 62) - Removed alcohol and drugs as listed mandatory mitigating circumstances in a capital case. Article 27, Section 413 (g).
- \* VICTIM IMPACT STATEMENT Chapter 297, Laws of Maryland, 1983 (SB 132) - Mandated the use of a Victim Impact Statement in a capital case. Article 41, Section 4-609.
- \* INCREASED LIFE SENTENCE Chapter 298, Laws of Maryland, 1983 (SB 41) - Increased time before Parole eligibility in a capital case from 15 years to 25 years. Article 41, Section 4-516 (b)(2).
- 1984 - \* MARYLAND GENERAL ASSEMBLY JOINT RESOLUTION NUMBER 28 (HJR 55) - Established Governor's Task Force on Victims' Services in lieu of legislative enactments.
- 1985 - \* VICTIM/WITNESS PROTECTION Chapter 159, Laws of Maryland, 1985 (SB 255) - Allows the court to prohibit the disclosure of a victim's or witness's address or phone number. Article 27, Section 772.
- \* UPDATED VICTIM IMPACT STATEMENT Chapter 523, Laws of Maryland, 1985 (SB 254) - Allows a victim of a crime of violence to present a Victim Impact Statement to the Parole Commission at time of parole. Article 41, Section 4-504 (d).
- \* COURT ATTENDANCE Chapter 563, Laws of Maryland, 1985 (SB 713) - authorized the court to allow a victim (under certain circumstances, a representative) to remain in the courtroom after testifying. Article 27, Section 773.
- 1986 - \* GUIDELINES FOR VICTIMS/WITNESSES Chapter 125, Laws of Maryland, 1986 (SB 274) - Established guidelines for the fair treatment of crime victims and witnesses ("Bill of Rights"). Article 27, Sections 847--850.
- \* TRUTH IN SENTENCING LAW Chapter 126, Laws of Maryland, 1986 (SB 312) - Removed the legal fiction of "life imprisonment" and now requires the judge to tell juries that a life sentence carries the eligibility of parole. Article 27, Section 413 A.
- \* VICTIM ALLOCUTION Chapter 127, Laws of Maryland, 1986 (HB 778) - Provides for the victim's or representative's right to address the sentencing judge or jury. Article 27, Section 780.

*"one person can make a difference and every person should try ---"*

*Stephanie Roper*

- VICTIMS: POST-SENTENCING RIGHTS Chapter 405, Laws of Maryland, 1986 (HB 15) - Established a victim's right to obtain notice for post-sentencing criminal proceedings. Article 27, Section 784.

1987 - \* REVISION: PATUXENT INSTITUTION'S ADMISSION POLICY Chapter 164, Laws of Maryland, 1987 (SB 373) - Restricted eligibility to the Patuxent Institution from those serving multiple life sentences for murder or a capital murder. Article 31B, Section 1(g).

- \* CONTRACTS FOR COMPENSATION Chapter 165, Laws of Maryland 1987 (SB 428) - Established "Son of Sam" Law to prevent criminals from profiting from the notoriety of their criminal actions. Article 27, Section 854.

- \* LIFE WITHOUT PAROLE Chapter 237, Laws of Maryland, 1987 (HB 693) - Allowed the imposition of a sentence of life imprisonment without the possibility of parole for first degree murder. Article 27, Sections 412-413.

- VICTIM PROTECTION FROM LIABILITY Chapter 607, Laws of Maryland, 1987 (SB 206) - Created exception from state collections and reimbursements for victims of violent crimes. Health General 16-203(a)(4).

1988 - \* STATE BOARD OF VICTIMS' SERVICES AND COORDINATOR Chapters 256 & 257, Laws of Maryland, 1988 (SB 14, HB 490) - Created a Victim Coordinator and Board of Victim Services within the Office of the Attorney General regarding victim issues. Article 27, Sections 837 - 844.

- \* JUDGES' RECOMMENDATIONS AT SENTENCINGS Chapter 486, Laws of Maryland, 1988 (SB 546) - Allows victims and sentencing judges to make recommendations regarding parole and protects disclosure of victims' addresses and phone numbers. Article 41, Sections 4-504(d)(e), 4-505, 4-506.

- GUIDELINES FOR VICTIMS/WITNESSES - JUVENILE CRIME Chapter 258, Laws of Maryland, 1988 (SB 29) - Established guidelines for the fair treatment of juvenile crime victims and witnesses. Article 27, Section 851.

- LIFE WITHOUT PAROLE - MINORS Chapter 428, Laws of Maryland, 1988 (HB 484) - Extended life imprisonment without the possibility of parole for first degree murder to minors. Article 27, Sections 412(f), 413(k).

\* SRC Priority

1989 - \* VICTIMS' COURT ATTENDANCE Chapter 486, Laws of Maryland, 1989 (SB 416) - Strengthens a victim's right to be present during a criminal trial by requiring determination of a good cause. Article 27, Section 773

- \* RESTITUTION Chapter 487, Laws of Maryland, 1989 (SB 417) Strengthens Maryland's restitution law in several ways: first, it constitutes a judgement as in a civil case; secondly, it is mandated as a condition of parole or work release from Patuxent Institution. It also requires justification when a court fails to order restitution. Article 27, Section 807.

- \* STATUTE OF LIMITATION FOR BATTERY Chapter 488, Laws of Maryland, 1989 (SB 418) - Extended the statute of limitations for battery from one year to the general period of limitations of three years. It applies to actions occurring after July 1, 1988. Courts and Judicial Proceedings, Sections 5-101, 5-105.

- VICTIMS' NOTIFICATION - PATUXENT INSTITUTION Chapters 6-7, Laws of Maryland, 1989, Notification rights of victims whose offenders are in the Patuxent Institution are now required. Article 31B, Sections 10, 11.

1990 - \* RESTITUTION Chapters 385+386, Laws of Maryland, 1990 Recodified restitution law; also provides in District Court cases that victims be notified as to the procedures for converting a restitution order into a judgement without cost to the victim. Article 27, Section 807.

1991 - \* MARYLAND CRIME VICTIMS' FUND Chapter 561, Laws of Maryland, 1991 (HB 434) - Creates a funding source for the Maryland Victims of Crime Fund by imposing a \$20 penalty assessment upon convicted offenders in Circuit Court, and a \$10 penalty assessment upon convicted offenders in District Court. Collected funds may be used for victims' services programs (State's Attorneys' Offices, Law Enforcement Agencies, service providers, grassroots organizations, etc.) in local jurisdictions around the State. Article 27, Sections 830 and 854 (j)(k).

- \* VICTIMS' NOTIFICATION - COMMITTED INDIVIDUALS Chapter 379, Laws of Maryland, 1991 (SB 585) - Creates notification rights to victims whose offenders are not criminally responsible and allows these victims to provide a written request for notification when the offender is being considered for release, has been released, or escapes. Health General Article, Section 12-122.

\*SRC Priority

- CRIMINAL INJURIES COMPENSATION ACT Chapter 656, Laws of Maryland, 1991 (SB 253) - Amends Maryland law to comply with federal law so as to entitle the Maryland Criminal Injuries Compensation Board to continue receiving matching funds under the Victim of Crime Act (VOCA). Under this bill, awards may be made to cover alcohol related traffic offenses, psychiatric, psychological and mental health expenses, and to some domestic violence incidents. Article 27, Sections 815 - 831.

1992 - \* HIV NOTIFICATION FOR VICTIMS Chapters 90 and 91, Laws of Maryland, 1992 (HB 505/SB 332) - Allows victims to request the testing of their offenders, prior to or after conviction, for the presence of HIV; requires that the court determine if there is probable cause that fluids capable of transmitting the virus were exchanged; requires confidentiality and counselling for both the victim and offender. Article 27, Section 855.

- \* PROFITS OR PROCEEDS OF CRIME Chapter 195, Laws of Maryland, 1992 (HB 1207) - Corrects Maryland's "Son of Sam" Law so that charged and convicted offenders would be prevented from profiting from the notoriety of their criminal actions. Article 27, Section 854.

- \* VICTIMS' NOTIFICATION - DIVISION OF CORRECTIONS Chapter 139, Laws of Maryland, 1992 (HB 263) - Expands victims' rights of notification, ~~face-to-face~~ meetings with a parole commissioner, and allows a victim to request no contact with inmates as a condition of parole. Article 41, Sections 4-504, 4-506, 4-511, and 4-511A.

- \* TRANSFER OF VICTIMS' SERVICES PROGRAMS Chapter 270, Laws of Maryland, 1992 (SB 649) - Transfers the Board of Victim Services from the Office of the Attorney General to the Governor's Office for Justice Administration to provide for more effective advocacy for victims' rights and services within the State Government. Article 27, Sections 837-844.

1993 - \* STALKING Chapters 206, 205, Laws of Maryland 1993 (HB 433/SB 7). This bill creates a crime of stalking with a penalty of five years which may be imposed consecutive or concurrent to the individual acts amounting to the crime of stalking. The Maryland law has one of the strongest possible penalties nationwide for first time offenders and allow a Police Officer to make a warrantless arrest for probable cause. Article 27, Section 121 B, 594 B (o) and 6161/2 (k).

\*SRC Priority

- \* CRIMINAL INJURIES COMPENSATION FUND This bill establishes an offender-based revenue source to compensate victims of crime. It adds court costs to the sentence of those convicted of jailable traffic offenses and also provides additional funding for the Maryland Victims of Crime Fund to serve crime victims. Chapter 224, Laws of Maryland 1993 (SB 262). Article 27, Sections 830 - 831.

- \* JUDICIAL REVIEW This bill clarifies that a Maryland crime victim may have a court review the denial or failure to consider the statutory rights to court attendance and Victim Impact Statements provided to victims of violent crime. This proposal was the merger of bills proposed by the Roper Committee and the Criminal Law and Practice Section of the MD State Bar Assoc. Chapter 421, Laws of Maryland 1993 (SB 264/ HB 1274). Article 27, Section 776.

1994 - \* RESTITUTION Strengthens Maryland's restitution law so as to increase the ordering and collecting of restitution in a criminal case. Chapter 475, Laws of Maryland 1994 (SB 274). Various Sections, including Article 27, Sections 807-812.

- \* VICTIM AND WITNESS PROTECTION Establishes a state program to protect and relocate threatened victims and witnesses of crime. Chapter 474, Laws of Maryland 1994 (SB 273) Article 27, Section 835.

- PAROLE AND REFORM Requires open hearings for certain violent crimes upon a victim's request, makes parole commission votes public, and limits parole for certain violent offenders. (This bill incorporated a previous proposal by the Stephanie Roper Committee to allow open parole hearings. Chapter 716 and 717, Laws of MD 1994 (SB 353/HB 1112). Article 41, Section 4-516.

- \* CONSTITUTIONAL RIGHTS FOR VICTIMS Establishes an addition to the Declaration of Rights of the Maryland Constitution, including requiring the State to notify victims of their rights to be informed of, present at, and heard. Grants victims standing to assert their rights in criminal justice proceedings. (Article 47, Constitution of Maryland, Declaration of Rights.) (Approved by Maryland voters (92.5%) on November 8, 1994) Chapter 102, Effective Dec. 7, 1994.

1995 - \* COURT COSTS - VICTIMS OF CRIME Increases court costs \$3.00, both in district and circuit courts, for non-jailable traffic offenses for one year, to provide additional revenues to meet the needs of crime victims. The collected fines are

\* SRC Priority



split between the Maryland Criminal Injuries Compensation Fund and the Maryland Victims of Crime Fund. Chapter 204 of the Acts of 1993, Section 20 as amended Court Article, Section 7-405.) Chapter 396, Laws of MD, 1995 (SB 709)

- 1996 - \* VICTIMS' RIGHTS - NOTIFICATION PROCEDURES - (a product of a Task Force) Creates a notification system as the first step to implement Maryland's Constitutional Amendment for Victims' Rights. (Article 47) All victims will be notified at initial contact. Serious crimes victims will be notified again on indictment or information filed in Circuit Court. A one-step form for victims to request their rights is mandated. Makes the \$3.00 cost for non-jailable offenses permanent. Chapter 641, Laws of Maryland, 1996 (SB 699/HB 975)
- \* CRIME VICTIMS AND WITNESSES - REORGANIZATION OF LAWS (A product of the Article 27 committee) - Recodifies or cross references all laws relating to victims & witnesses to a single subheading to help judges, attorneys, victims and advocates to better identify victims' rights law. Facilitates for a substantive review of victim rights laws. Chapter 585, Laws of Maryland, 1996 (SB 456/HB 576)
- \* COURT COSTS - VICTIMS OF CRIME - Continues a \$5.00 Court Costs for jailable offenses and dedicates the fund to the Maryland Victims of Crime Fund. Allows the Board of Victim Services or the Governor to transfer some or all to the Victim and Witness Protection and Relocation Fund. Chapter 598, Laws of Maryland, 1996 (SB 741/HB 1209)
- ORAL ADDRESS - Allows for a victim or survivor to present an oral address at an open parole hearing. Chapter 573, Laws of Maryland, 1996 (SB 254/HB 847).
- COURT COSTS - STATE AID FOR POLICE PROTECTION, CRIMINAL INJURIES COMPENSATION, AND VICTIM AND WITNESS PROTECTION AND RELOCATION - Dedicates \$500,000 per year to the Criminal Injuries Compensation Fund and \$125,000 per year to a new Victim and Witness Protection and Relocation Fund. Chapter 587, Laws of Maryland, 1996 (SB 578); Chapter 588, Laws of Maryland, 1996 (HB 898).

NOTE: - Legislative priorities of SRC are designated with an "\*" - All legislation represents bills SRC worked for and supported

# COLOR OF JUSTICE

CULTURALLY SENSITIVE TREATMENT OF  
MINORITY CRIME VICTIMS

Written By

DR. BRIAN OGAWA

Published By

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*The criminal justice system's fulfillment of this purporting to be a more insightful policy and research on both prevailing strengths and weaknesses of treatment for victims of violence, and court procedures, and concerns of victims of violence. Mental health care for victims of violence. Heightened participation of victims in the justice system of American justice.*

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## LA FAMOSA JESSICA

Jessica Morales was an exceptional child. She was born premature and barely two hours later, seared by an intense high fever, lapsed into a coma. For weeks, Jessica lay without movement as doctors desperately searched for explanations. Then one day, Jessica unexpectedly regained consciousness. The doctors were baffled by the course of events but shortly thereafter allowed her parents, Francisco and Claudia, to take their infant daughter home.

Within weeks, however, Jessica returned to the hospital. A cranial shunt had to be inserted to drain fluids which were exerting pressure on her brain. Although the procedure was successful, the doctors expected Jessica to suffer severe and permanent brain injury. Instead, she miraculously recovered without any real impairment. Among the hospital staff, she became known as "la famosa Jessica" (the famous Jessica) because of what she had overcome so early in life.

Jessica grew to be a happy and bright child. Her father said, "She liked music, to dance. She smiled all the time." She wanted to be *numero uno*, the best in whatever she did. By the time she reached the third-grade at Victory Boulevard Elementary School, Jessica was also eager to assist her teacher by translating for the other Spanish-speaking children. Her dream was to become a nurse because she wanted to keep people from dying.

On July 25, 1989, at 2:25 p.m. Jessica was in front of her home on the way to visit a friend. Suddenly a car veered across the boulevard, leaped a curb, grazed a tree, and then struck Jessica, hurling her 60 feet through the air. She died almost immediately of massive internal and head injuries. A neighbor who heard the horrible sounds of the crash, came running to the scene. He saw Jessica's lifeless body on the ground and covered her with his jacket to protect her from the hot afternoon sun. Other neighbors, most of them Hispanic, began to gather. Jessica's parents were summoned from work.



A police officer arrived. He shouted out if anyone had seen what occurred. No one responded because they had not actually been witnesses. The officer in apparent disgust and derision then remarked, "Why don't any of you speak English?" The person who had provided his jacket for Jessica, an African American, looked up angrily from where he was kneeling beside her and answered that if he, the officer, was to serve this community, he had the responsibility to be bilingual.

The crowd that assembled became increasingly mixed in racial composition. At one point, forming a circle around Jessica, they bowed their heads and offered prayers. The death of this child had stunned everyone. Differences in language and ethnicity did not prevent the common experience of grief.

Before they were married, Francisco had emigrated to Los Angeles from Mexico and Claudia from Guatemala. Their most meaningful encounters with non-Hispanic persons prior to their daughter's death were with the customers of the fast-food Mexican restaurant at which they worked. July 25 changed all that. Their tragedy touched many people's hearts. That even strangers showed concern was a source of strength for Jessica's parents. One couple offered their own cemetery plot for Jessica's burial. Others visited and gave financially to offset funeral expenses. Claudia was overwhelmed that her boss shed tears at the service for her daughter. Over the many years that she had worked for him, he had expressed little emotion toward his employees. Jessica's classmates also dedicated two books for their school library in her memory, and composed a gentle and thoughtful letter in Spanish for her parents. Francisco and Claudia have kept the letter in a frame as a remembrance of their special child.

Claudia cries each day for her daughter. Not being there to caress and comfort Jessica as she lay dying has brought her unbearable anguish. What sustains both Francisco and Claudia is concern for their younger daughter, April, and "la fe" (faith in God). April is seeing

a child therapist at a refused to be alone in had in her casket. R see her sister again

Jessica's par daughter. He was ci At the sentencing h the words of a "car her aid. Just month Catholic religion. I believe, was prepa

A few friend two feel forgiveness an array of emotio defendant, after his \$2,500. Francisco while intoxicated a they were never k newspapers. They the sentencing hea have lost loved or meeting. Francisco Latinos, speak lin neighborhood.

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a child therapist at a community clinic for Latinos. For one week after her sister's death, April refused to be alone in her bedroom. She was fearful that she would fall into a "sleep" as Jessica had in her casket. But three months later, April said she now wanted to die so that she could see her sister again.

Jessica's parents now feel little animosity toward the drunk driver who killed their daughter. He was convicted of vehicular manslaughter and sentenced to two years in prison. At the sentencing hearing, Francisco and Claudia gave the defendant a Bible, inscribed with the words of a "cancion," a song written in honor of Jessica by the man who first rushed to her aid. Just months before their daughter's death, the Morales family had returned to the Catholic religion. There was a sense of new life, more love and unity among them. God, they believe, was preparing them for what was to happen.

A few friends and acquaintances have criticized Francisco and Claudia because the two feel forgiveness rather than hatred toward the defendant. They have, in fact, experienced an array of emotions over the course of time. They were initially puzzled and angry that the defendant, after his arrest, had been almost immediately released from custody on bail of only \$2,500. Francisco's brother-in-law, on the other hand, was riding a bicycle on a sidewalk while intoxicated and was incarcerated for one week! Francisco and Claudia also wonder why they were never kept informed as to the legal proceedings but had to depend upon the newspapers. They met the district attorney handling the case only once—15 minutes before the sentencing hearing. They have, moreover, felt slighted by a support group for those who have lost loved ones at the hands of drunk drivers. The group has yet to invite them to a meeting. Francisco and Claudia believe that they have been largely ignored because they are Latinos, speak little English, and live modestly in an old rented house in a nondescript neighborhood.

Jessica's parents requested that I use their true names so that their story could be told without fabrications. Their child, fragile at birth, had become a little girl with effluent energy and contagious hopes. It was as if she had undergone a rebirth. And now the Morales' believe Jessica has been reborn again, not only in heaven but also in their lives. Claudia had fiercely mistrusted people prior to Jessica's death. Life in her homeland of Guatemala had been difficult. But Claudia has changed. Before, she had vowed that if anyone hurt her daughter Jessica, she would kill that person. Now she realizes that her precious child has given her a "corazon" (a heart) of compassion and understanding.

Francisco and Claudia welcomed my visit to their home because they want to help others who have experienced similar misfortune. Near the end of our time together, they smiled and asked whether or not I had the courage and insight to write on behalf of minority victims. I promised to convey as best I could what they and other survivors had shared. Carefully selecting a treasured photo of Jessica from her purse, Claudia presented it to me. Her eyes were brilliant with tears of sorrow and thankfulness. Jessica's photo has been a constant companion of mine during the writing of this book. It has been my anchor in the sea of information and opinions which flood and storm over any discourse on minority issues. Jessica Morales is *everyone's* child, for she is a symbol of all that we hold dear in life.

## MULTICOLOR HOLOGRAM

All victims of crime are susceptible to maltreatment from uncaring, misinformed, or antagonistic individuals and the failings of an overburdened, ponderous, and jaded criminal justice system. There is a kaleidoscope of insensitivity and injustice which victims of every race and ethnicity have endured. The events cascading upon Jessica Morales' family in the aftermath of her death, nevertheless, summarize the *distinct* experience of many minority

crime victims. The practices and beliefs characterize and se

This book is defining culturally however, could no therefore upon the Island Americans, from Latin America: population is limit relative numbers in

In many ways inquiry into how v All branches of the responsibly discern however, genuine groups who refuse manner. Color line view their profession woven into their p

The thematic justice system and American society. task of aiding victim hard questions an

crime victims. There are psychological responses to crime, community resources, cultural practices and beliefs, and matters of social acceptance, racism, and discrimination which characterize and set apart minority populations in the United States.

This book is a compendium of general principles, practical approaches, and key issues defining culturally sensitive treatment of crime victims. The needs of all minority groups, however, could not be addressed within the constraints of a single volume. The focus is therefore upon the four largest racial minority groups—African Americans, Asian/Pacific Island Americans, Hispanic Americans, and Native Americans. Immigrants and refugees from Latin America and Southeast Asia are included, but the discussion of the Pacific Island population is limited to Hawaiians in deference to their status as native peoples and their relative numbers in comparison to other Pacific Islanders in the United States.

In many ways, this book is a primer. It is a starting point for more complete and detailed inquiry into how violent crime impacts victims in our multiracial and multicultural society. All branches of the criminal justice system and the full complement of victim services must responsibly discern and implement approaches which acknowledge diversity. It takes, however, genuine openness to cross color lines with skill and grace. There are persons and groups who refuse through habitual disinterest or intense scorn to engage themselves in this manner. Color lines form the precipice of their racial and cultural tower. There are others who view their professions and those they serve with a blend of idealism and realism. They have woven into their philosophies and methods a varied response to human suffering.

The thematic chord of COLOR OF JUSTICE is not a blanket indictment of the criminal justice system and victim service agencies or a sweeping polemic of the white majority in American society. All of us, of every race and persuasion, who have accepted the enormous task of aiding victims of crime merit utmost encouragement. At the same time, we must pose hard questions and remedy our obvious errors. The most incisive and elucidating path to

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accomplish this is to heed what minority victims themselves tell us concerning how they have been treated. Doing so will elicit discomfort, disagreement, and controversy. But the concerns of these victims should not be expediently dismissed or continue uncorrected. Their accounts are compelling and real. COLOR OF JUSTICE is, in essence, a forum for their stories of pain and frustration as well as survival and recovery. Hopefully, this book clarifies the rendering of a *multicolor hologram*, one portraying images of culturally insensitive treatment receding and being replaced with a new and deepening respect for others different than ourselves.

## CULTURALLY DIVERSE VICTIMS

by Brian K. Ogawa, D.Min., Director, Victim/Witness Assistance Division, Department of the Prosecuting Attorney, County of Maui, Hawaii

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### INTRODUCTION

The term "culture" can be reasonably applied to various population categories. There are cultures or subcultures, for example, which reflect differences of age, gender, sexual orientation, religion, and geographic region. Each of these groups employ particular ways of viewing and meeting the challenges, traumas, and triumphs of life. Culture, however, for this discussion, represents race and ethnicity. It is this diversity which both enriches and obstructs much of our involvement and interaction with others.

Across America, racial and ethnic heritages are being dramatically interwoven. An array of languages, religions, customs, and traditions is infusing our nation with both vibrancy and challenge. "Once America was a microcosm of European nationalities," states Molefi Asante, chair of African American Studies at Temple University. "Today America is a microcosm of the world." Such an occurrence is not necessarily the harbinger of chaos. Inevitably and even enthusiastically this emergence must be accepted and endorsed.

The criminal justice system is not exempt from the consequences of these demographic changes which are generating a new definition of "American citizen." As the European American population continues to decrease in relative percentage, there is a corresponding and accelerating increase of Latino, Asian, and African Americans. How does the criminal justice system adhere to equal justice in this complexity of peoples? How must victim assistance programs fashion priorities and ensure competence in order to serve the widening spectrum rather than an exclusive number of peoples?

### DIVERSITY WITHIN DIVERSITY

There are two eternal truths about human beings: people differ from one another and people are similar to one another. When we consider the distinctiveness of others, we may tend to over-generalize in order to highlight the commonalities within cultural identities. The variety within cultural groups, however, may be obscured by the emphasis we place between them. Any aggregate labeling of people is, in other words, part logic and part insult.

The term "Indian," for example, was a misnomer foisted upon the Arawak tribe of the southeastern United States by an errant Italian navigator who had set sail for India. It is now (mistakenly) used to describe all the native populations of the Western Hemisphere. "American Indians," perhaps preferably called "Native Americans," are now acknowledged by the Bureau of the Census to be over 500 separate nations and tribes with 187 different languages.

The term "Hispanic" refers to those who share a common language, i.e. Spanish. But not everyone who is from Mexico speaks Spanish, e.g. the native peoples from the central mountains. There is also noticeable class differences between destitute Guatemalan refugees who have fled violent political upheaval in their homeland and relatively prosperous Costa Ricans who enjoyed some measure of social and economic stability.

Just as it is presumptuous to consider a Bostonian Irishman, an Anglo-California yuppie, a Jewish Greenwich Village artist, a Texas rodeo star, and a New Age Santa Fe vegetarian as all the same because they are coincidentally "white," it is just as unwise to render all "Latinos" (or Asians or African Americans) as inherently

alike. As Roll, Millen, and Martinez have pointed out, "there are some ways in which any particular Chicano is like all other Chicanos and there are some ways in which a particular Chicano is like no other Chicano."

No one is just what we label or classify them. Who we are is inseparable from our racial and ethnic backgrounds but not strictly determined by them. All crime victims deserve to be treated as individuals even as the nuances of race and culture (and the degrees of acculturation) are recognized. Victim counselors, in other words, should learn about other cultures, continually assess the adequacy of various communication styles and counseling methods, and be flexible enough to make adjustments on a case by case basis.

## WHAT CULTURALLY SENSITIVE SERVICE IS NOT

### Color Blindness

"I haven't noticed that you are different. We are all humans. We all have the same feelings. I don't care if you are pink, green or purple." Presumably with good intentions to treat everyone equally, such overtures are sometimes made by victim counselors. There is, however, no universal response to suffering. The role of racial experience and cultural history cannot be readily dissolved into some melting pot of generic humanity. "Ethnic identification," writes Parsons, "is an irreducible entity, central to how persons organize experience." As Tello adds,

*What it [color blindness] does demonstrate is the service provider's inability to understand and articulate these differences. When this occurs, the service provider may attempt to justify his own position by minimizing the role of culture.*

### Memorizing Cultural Idiosyncrasies

Service to culturally diverse crime victims is not primarily a command of every minute custom or memorization of an encyclopedia of rigid do's and don'ts. This would be an impossible task. A stereotypic approach to any victim is obviously simplistic and harmful. An attempt should instead be made to learn the significance behind several major cultural forms, for example, the meaning to the persons practicing those traditions. This will help one gain a personal feel for the culture, to know people from the perspective they see themselves rather than focus upon their isolated behaviors and "unusual" thinking.

In the aftermath of Patrick Purdy's deadly rifle assault on the schoolchildren of Cleveland Elementary School in Stockton, California in 1989, for example, there was an outpouring of concern and support from across the nation. Five children had been killed and 29 children and one teacher wounded. Two of the central events in the healing process for the Cambodian and Vietnamese surviving family members were the Buddhist funeral service and a subsequent ceremonial purification of the school grounds for the purpose of "releasing" the children's spirits. These rituals were strange for the local district attorney's victim assistance staff, but their involvement in facilitating and participating in these events, their willingness to depend upon the Buddhist monks for leadership, and their efforts to quickly learn (only) the most important Southeast Asian mourning customs were keys to being helpful.

### Translating Standard Materials

A frequent method of outreach to non-English speaking victims is to provide translated materials with portrayals of racially diverse people. When the translation explains how to seek a restraining order, how to locate the courthouse and prosecutor's office, how to apply for criminal injuries compensation, or how to complete forms, such multilingual brochures and handbooks improve accessibility to the criminal justice system. Key words in English should also be included to enhance recognition and familiarity.

When counsel on the effects of victimization or self-help suggestions are being provided; however, these must be evaluated as to whether or not these actually give needed assistance or merely bestow readable materials upon those literate in a language. All crisis intervention methods and counseling modalities are based upon specific philosophies of suffering and healing. Those derived from conventional Western theories are most prevalent in victim services. Those that incorporate the perceptions, beliefs, values, and experience of diverse cultures must also be made available to crime victims. One way to accomplish this would be to have victim counseling materials first developed from within a culture and then translated into English so that an understanding would be gained for what is relevant for that culture.

### Diversity of Victim Service Providers

Race is not the same as culture. There are, for example, "Black Portuguese" residing in the United States. These persons are racially black African but culturally Portuguese as the result of colonization and slavery on the islands off the coast of Africa. Same ethnicity, moreover, does not itself mean biculturally competent. A particular counselor's favorable cross-cultural experiences predict effectiveness with diverse victims more than simply identical race or ethnicity.

There is undoubtedly the need to have more minority victim service providers who know their own ethnic histories, people, culture, and language. Victim programs should demonstrate diversity in their staffs relative to the composition of their client populations. If there is justification for the absence of such representation, however, there are other avenues that can be developed to meet the needs of diverse peoples. These include the use of minority volunteers and organizations, an appropriate referral list, culturally-sensitive protocols, and on-call translators.

### BASIC QUALIFICATIONS OF CULTURALLY COMPETENT SERVICE

#### Compassion and Sincerity

Most minorities have evolved a sharp sense for detecting condescension, manipulation, and insincerity. There is no substitute for compassion as the foundation and sincerity as its expression for carrying out victim services equally and fairly. Although it is not possible to feel the same compassion for all victims, it is the responsibility of providers to do the same compassionate service for every victim.

The plight of undocumented residents or illegal aliens, for example, involves complex issues of personal prejudices and international politics. Sentiments among Americans regarding the clandestine migration of those, mostly from Mexico and Central America, who seek a better life here range from compassion for the safety and dignity of those fleeing poverty and war to border vigilante hunts and savage beatings.

Once in the United States, the undocumented become easy prey for employment exploitation, consumer fraud, housing discrimination, and criminal victimization because assistance from government authorities is attached to the fear of deportation. There is an epidemic of sexual assaults, for example, committed upon undocumented Latinas. Their immigration status, however, does not mean that they should receive less protection under the criminal laws or less right to victim services. Compassionate and sincere advocacy knows no such borders.

#### Respect

Respect is withholding ethnocentric judgments about the cultural practices of others. A place of remembrance for a deceased person, for example, is often found in an Asian home. After my father died, my mother placed his photograph on the hutch in the dining area of her home. She offers the best of the fruit she buys at the market and



the first plate of anything she cooks is placed next to the photograph. It is her way of honoring the over 55 years of married life they shared. This custom may be strange to most Westerners, but it is a Japanese and Buddhist tradition to have an ancestral altar.

Respect also means not minimizing the experience of others. In the inner city of Los Angeles gang and drug-related homicides are common. When one particular slaying occurred, the newspaper headline routinely announced, "Just Another Day in South Central." The familiar scenario of young black males seeking reprisal for a cocaine buy gone awry was present. The alarming difference in this case was that the victims were two mistakenly killed teenage girls. For their parents, loved ones, and friends this was not just another day.

As one of the girl's mothers stated to me, gang violence and the fear it brought to her neighborhood were never acceptable. There was never a "tolerance of crime" merely because it was an everyday occurrence. The day her daughter died was not and can never be ordinary. It is the deepest tragedy which will repeatedly pierce her heart through many years.

### Delivery of Services

The manner in which we organize our agencies may unknowingly deny or hinder entry to various groups. It is simplistic to bemoan the scarcity of certain groups utilizing services by attributing this primarily to their lack of education or awareness. The responsibility for delivery of services rests with the providers and not with (potential) recipients. Minorities, in fact, often view prevailing services as unresponsive to their needs and uninformed of their preferred practices and beliefs.

The methods for reaching culturally diverse victims must therefore include traditional resources within the various communities as well as the inauguration of victim-specific ones. The historical role of black churches, the reliance upon Mexican curanderos and Native American shamans, and the social constructs of Asian life must be understood and incorporated. At the same time, establishing some type of presence in ethnic neighborhoods, whether store-front offices, mobile crisis units, outreach to homes, or coordination with community-based organizations, is essential.

### First Contact

The first contact minorities have with the criminal justice system will either confirm or dispel suspicion as to how they will be treated. Proper pronunciation of a person's surname is an excellent place to start! Surnames also have histories and meanings which allow conversation beyond introduction.

In working with an immigrant, refugee, or native populations, it is also helpful to learn a few words of greeting from that culture. Be careful, however, of your intonation and loudness. The Native Hawaiian word "aloha," for example, has been frequently corrupted. The root ha refers to the "breath of life", the giving (exhaling) and receiving (inhaling) of life itself. As a greeting then it means the imparting of life to others and the acknowledgment of accepting life from others. When the ha is crudely enunciated, it collapses the spiritual essence of this meaning.

The willingness to go outside what is comfortable and usual conveys your intent to communicate. Victim service providers who properly leave their shoes at the doorstep of Asian families, for example, are seen by these residents as entering to understand and not impose. The Asian home is a sanctuary wherein various rules and proprieties are followed. Knowing this, a victim service provider should be observant and alert to cues as to appropriate word and action rather than be consumed by anxiety about committing mistakes.

## Appraise Your Prejudices

Darnell Hawkins, a sociologist in the Black Studies Department at the University of Illinois-Chicago, states that black victims of crime in general are not treated seriously, particularly if the offender is also black. Attitudes toward black women especially are rooted in the long period of legalized slavery in America and profligated by current prejudices. Black women were the sexual property of white slave masters. Since they had no rights to resist or protest, there was no definition of rape to protect them and thus no legal recourse.

Today, many black women assume they will be treated unfairly by police and prosecutors when they do report rape. Any rape case where there is little corroborating evidence, such as eyewitnesses or physical injuries to substantiate the charges against a defendant, presents obstacles. When the woman is black, there appears to be greater reluctance by legal authorities to proceed beyond preliminary investigation. Black women, in other words, are burdened with stereotypes about being sex objects and solicitors. As Evelyn White recites,

*We are considered evil but self-sacrificing...sexually inhibited yet promiscuous. Covered by what is considered our seductively rich but repulsive brown skin...society finds it difficult to believe that we really need physical and emotional support just like everybody else.*

When racism invades criminal proceedings, it subverts the very concept of justice being blind. In a California prosecutor's office, for example, an assistant district attorney was heard to have made this comment about a young white woman who had been beaten by her African American husband: "She deserves it because she married a nigger." In the mind of this prosecutor, any white woman who is in an intimate relationship with a black male (and perhaps any minority male) has somehow abrogated her rights to ordinary sympathy and legal protection. His attitude universally degrades women and marks any black male as a dangerous partner.

## Responding to Hate Crimes

Resistance to rapid ethnographic changes due to large-scale immigration has amassed, with long-standing racial bigotry, to produce a climate of racial tension. Whether or not this constitutes an adjustment period to form a more pluralistic society or the brewing of polarization is unknown. With the incidents of ethnviolence spreading, the signs are not encouraging. How seriously do we regard bias crimes and respond to hate violence? Do we understand how being targeted because of race and ethnicity affects these victims?

The ironic effect of any personal prejudice jeopardizing the quality of services to victims of hate crimes is that these victims have been found to suffer more symptoms of post-traumatic stress than other violent crime victims. According to the National Institute Against Prejudice and Violence survey of such victims:

*The substantive character of these responses is quite serious, ranging from psychophysiological problems indicative of great stress (higher levels of depression and withdrawal, increased sleep difficulties, anxiety and loss of confidence) to an extraordinary percentage reporting serious interpersonal difficulties with friends and significant others. (Forum, 5:1, p.6)*

## DEVELOPING A CROSS-CULTURAL STYLE

### Avoid Misuse and Distortion of Cultural Values

On April 14, 1989 Ramon Salcido, a Mexican vineyard worker in California, murdered his daughters, his wife, his mother-in-law, his sister-in-law, and an employer. Alcohol and jealousy fueled Salcido's "journey of destruction, which resulted in the worst mass homicide in the history of Sonoma County. The media accounts portrayed Salcido

as a "hot-blooded Latin who gloried in machismo." It was thus implied that his gruesome acts were somehow culturally-based in the characteristic way Latino men treat their wives.

Although some Latino abusers claim a "cultural birthright" to (brutally) dominate their spouses, their argument is not legally acceptable nor true to the proper meaning of machismo. Insensitive representations by the American media and negative stereotypes of the Mexican culture in general have contributed to a distortion of traditional male/female roles governed by machismo. Accordingly, the term "macho" often is assigned to the male who is over-aggressive, controlling, temperamental, and boastful.

The essence of machismo, notwithstanding, is in the words of Rodriguez and Casaus, "a man who meets his family responsibilities by providing food, shelter, and protection for his wife, children, and, in some cases, other relatives living with the family." Mexican family life is based upon mutual respect and interdependence. Husbands are reminded not to disrupt the well-being of the family by selfish and outrageous acts.

Mexican culture, in other words, is not pathological as has been assumed by those who have regarded machismo as promoting wife-battering. Indeed, it is the balance of relationships in Latino families which provides the safeguards preventing domestic strife. Ramon Salcido is an aberration of his cultural heritage, as any criminal is of any culture. His savage act was a failure to fulfill machismo, not a fated demonstration of it.

The lesson for victim service providers is that misinterpreting and exaggerating elements of a culture may be detrimental to understanding the dynamics of victimization experienced by a person of that culture. Condemning or disparaging cultural patterns stemming from false summaries also denies victims the ability and right to draw natural strength from their cultures.

## Evaluate Mental Health Concepts

The therapist told Kim that she needed to "heal the child within her." Kim, a Southeast Asian refugee, listened in astonishment and became very nervous and agitated. She wondered how this Caucasian woman could know that she was pregnant when Kim herself was unaware of this. More so, she did not want another child by her abusive husband! Noticing the look of anguish in her client's face, the therapist hurriedly explained that the term "child within" was not to be taken literally. It was merely an expression from a popular Western therapy that meant the "spirit" of a child within someone. Hearing this explanation, Kim fled the room.

Upon returning to the shelter where she was staying, Kim tearfully announced to a staff member that the spirit of the child she had lost through miscarriage several months earlier was distressed and trapped inside of her! It was many hours before Kim could be assured that her fears were needless.

For Southeast Asians the notion of mental health or psychological well-being is novel. Individual insight to benefit the "self" is incomprehensible to cultures that assign identity and worth to harmonious relationships. A critical need for Kim and other battered Asian immigrant or refugee women is therefore to regain a sense of belonging. Without her traditional family ties through her husband, Kim became an oddity in the Southeast Asian community. Her isolation needed to be ameliorated by a strong base of support provided by other women in the shelter. Rather than individual therapy, Kim needed to learn how to maintain and broaden her linkages to others, including gaining sufficient proficiency in English to secure employment and networking with other single parents.

Western views of normality should also be carefully applied. The Sioux, for example, practice a form of self-treatment called wacinko. This is a sort of "time-out" by which the person intentionally sets aside active and non-productive involvement in a stressful situation. This practice has been frequently misdiagnosed by Western psychiatrists as a reactive depressive illness marked by withdrawal. Wacinko is in fact a solution to a problem, a trust that a resolution will naturally occur. This is a cultural form of healing in which passivity is not hopelessness but hopefulness.

## Culturally Appropriate Listening

Listening is fundamental to human relationships and counseling. The principles and manner of listening, however, differ across cultures. Asians and Pacific Islanders, for example, deflect direct eye contact in conversation as a sign of patient listening and deference. Words are believed lost through the force of personalities when attention is drawn to physical presence and posturing. Staring is therefore considered impolite and confrontational.

Many Western cultures, on the other hand, value direct eye contact as a sign of sympathy or respect. Looking elsewhere is seen as disinterest, evasiveness, or rudeness. Misunderstanding can accordingly occur if some allowance is not made for these differences.

## Learning From Diversity

Serving diverse crime victims is not just learning about other races and cultures, a collection of information and facts. It is learning from them. Unless we covet the wisdom and experience of other people and allow these to have a personal affect upon our lives, we will fail to appreciate the tremendous contributions they can make to our comprehending suffering and the process of healing.

A key principle in Eastern psychotherapies, for example, is that "life is attention." Life is only that which occupies our attention. Where attention goes, in other words, life energy follows. It is therefore crucial to be practical and purposeful to what and to whom we give our attention. This is transculturalism, a sharing of some truth across cultures. Victim service providers can serve a diversity of people only as well as we engage in such sharing.

## RECOMMENDATIONS

1. Acknowledgment of the different and valid cultural definitions of personal well-being and recovery from traumatic events.
2. Support of the sophisticated and varied cultural pathways to "mental health" and incorporate these into appropriate victim services and referrals.
3. Extensive cultural awareness training and competency testing to enable victim assistance staff to have the capacity to understand persons whose thinking, behavior, and expressive modes are culturally different.
4. Multiethnic and multilingual teamwork as a resource to implement and monitor effective victim services.
5. Cross-cultural perspective to benefit from the principles and methods of other cultures.

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DAVID K. REYNOLDS

FLOWING BRIDGES,  
QUIET WATERS

*Japanese Psychotherapies,  
Morita and Naikan*

*State University of New York Press*

## ■ Practicing Japanese Psychotherapy with Victims of Violent Crime\*

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*His doctoral dissertation examined the interface between Morita therapy and Western pastoral counseling. He is certified in both Morita guidance and Naikan counseling. Over the past several years Dr. Ogawa has maintained a private counseling practice and has trained law enforcement, medical emergency and mental health professionals in the use of Morita therapy. He has counseled more than one thousand violent crime victims and witnesses.*

### Introduction

Victims of crime respond in diverse ways to their victimization. Although there may be certain common patterns which can be summarized as "syndromes," each victim has particular needs deserving individualized assessment and treatment.

Accordingly, mental health practitioners and counselors must increase their awareness of treatment approaches to help ensure appropriate and beneficial services. Each psychotherapeutic system, for example, can be considered in terms of the human values it proffers and

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\*A revised version of this chapter was presented as a paper at "The Aftermath of Crime: A Mental Health Crisis" a National Institute of Mental Health Colloquium held February 28-March 3, 1985 in Washington, D.C.

its ideas concerning the source and amelioration of suffering.

Morita's theory and method have been introduced into the West at various times, but it is recently attracting new attention because of its merit as a brief, directive therapy. At present there are several centers of practice and professional training in the United States.

Over the last several years the Western version of this therapeutic style has been used in the training of medical emergency personnel, nurses and law enforcement officers, as well as counselors of victims and witnesses of violent crimes. As a primary therapy, used with adjunct methods, Morita therapy has proved highly effective in crisis and support counseling, preparing witnesses for court testimony and helping people live more effective lives following victimization.

The goals of Morita therapy are to teach individuals to accept their feelings as they are, to know their purposes and to do what needs to be done. These goals of *acceptance*, *purpose* and *action* direct clients toward "constructive living," a term associated with the Moritist approach (Reynolds, 1984).

### Acceptance of feelings

The emotions accompanying victimization are frequently extraordinary. In reaction, many victims believe they must somehow overcome these emotions. They pay excessive attention to their feelings, prolonging and even intensifying the very emotions they are attempting to manage.

A middle-aged woman, for example, was brutally raped and sodomized in her home by a teen-age boy. She was terrorized and assaulted for several hours in her bedroom and kitchen. Only by an act of desperation, striking her attacker with a bottle and escaping through a door to the outside, did she avoid being mutilated or stabbed to death.

In all probability, the assault has scarred this woman in some ways for life. What especially troubled her in the aftermath, however, was her inability to control her own emotions. She desired to feel secure and confident once again. Instead, she continued to feel alone and vulnerable in the weeks that followed. The more she noticed that these feelings persisted, the more she became upset and depressed. She was, in other words, using her emotions as an index of her ability to cope with her ordeal.

Moritists evaluate emotions as the *natural responses* to certain life



occurrences. Tragedy yields grief. Death brings feelings of loss. Danger induces fear. Just as we cannot avoid all unpleasant events in life, we will experience a certain amount of inevitable emotional suffering. Acceptance, therefore, is the most practical and realistic strategy for handling what cannot be avoided. Acceptance does not mean passive resignation, however. It means "accepting reality as it is" (*arugamama*, in Japanese), acknowledging life's circumstances and accompanying emotions, and directing one's life toward actively bringing about desired changes in life.

Feelings, after all, cannot be directly controlled by one's will. What one feels is not simply a matter of what one chooses to feel. The woman who was assaulted attempted at first to dull her emotions through sedatives and alcohol. She later attempted to distract herself from what she was feeling by "keeping busy." These tactics offered no more than temporary relief. In a sense, they exacerbated her condition because she recognized their superficiality. Each time her fears reappeared she was reminded that she was failing to control her emotions. She interpreted this failure to mean that she was losing control of her life and that she was somehow responsible for this failure. Her self-image and self-confidence increasingly suffered.

This woman was counseled to accept her emotions as natural and understandable effects of her rape. The experience of her rape could not be erased from her life history. The emotions were real, but they would eventually subside unless restimulated in some way. By focusing her attention and energies on her emotions this woman had actually delayed her recovery. To regain control of her life she needed to turn her attention away from being emotion-centered toward being purposefully behavior-centered. She would then be able to take command of her life *no matter what she was feeling*. For behavior (with few proscribed exceptions) is always under one's control and within the sphere of personal responsibility.

#### Knowing one's purpose

Disorientation, disruption and confusion are frequent results of victimization. Physical injury, the loss of a loved one, damage to personal property and the like upset life routines and make normal functioning difficult.

A mother whose adult son was beaten to death shared her observation that her favorite pastimes of cooking and sewing were no longer of

any interest to her. These activities had been closely tied to her enjoyment of motherhood. They were now painful reminders of the loss of her son. Persons who are most severely affected by crime seem to be those whose life purposes have been radically disturbed. The mother who lost her son had clear purposes centered around the everyday activities of her family. The biting irony was that her son was murdered senselessly, without provocation or reason. The center of meaning in her life had been killed in meaningless fashion.

One of the essential elements of any recovery from victimization is the return to *purposeful living* (Reynolds, 1984, pp. 50-53). Purposes involve both major life goals and concerns as well as reasons behind specific and limited actions. The clearer one's purpose and the more one acts in line with some positive purpose the more constructive one's life becomes. New constructive purposes may emerge after the trauma of victimization.

The mother whose son was murdered didn't return to all of her former interests. She did, however, gain a different and valuable understanding of her life. She recognized that she was symbolizing the devastating effect of the death of her son by curtailing important activities. At first, she did little constructively at all. Eventually, she was guided to see that behaving positively in memory and honor of her son was a tribute closer to what she truly wanted. Along with her husband she organized a self-help group for surviving family members of homicide victims. The pain still lingered, but her strong wish to nurture was redirected to benefit others and herself. She no longer saw her emotions as threats to her well-being. What she felt reflected her personal and heartfelt love for her son. She discovered a precious lesson to share with parents who have suffered a similar loss.

#### Doing what needs to be done

Life, in the Morrist view, is lived moment by moment. Reality presents itself this way. The problems and emotions associated with victimization are present concerns for a victim only when they are actually noticed in a given moment. There is an ebb and flow to emotions. There is no repository of anger, fear or anxiety "bottled up" or hidden within. There are no angry persons, fearful persons or anxious persons, only persons who have moments of anger, moments of fear, moments of anxiety. Crime victims may experience these moments of

strong emotion more often than before, but in the moments when they aren't attending to the feelings those feelings present no problem, no upset.

One of the goals of the Morist approach is to help victims attend fully to what needs to be done in their lives rather than exclusively focusing on how they are feeling. As one focuses on doing what is necessary and purposeful the chances of feeling successful satisfaction increase. We are more likely to feel confident or trusting or secure by *doing* those things which make for confidence or trust or security rather than trying to will these emotions into existence. The ultimate goal, however, is not to feel better to live better, that is, to live constructively in each moment, doing each large and small task well.

A young father was greatly affected when he was assaulted by three men. He became withdrawn, overprotective of his wife and daughter and accident-prone at his job. His relationships with workmates, friends and family were strained.

It was necessary for him to begin with proper attention to the basics of eating, sleeping, work and rest—behaving properly however he felt. He was instructed to do what he could to accomplish his tasks in these areas without necessarily feeling enthusiastic or motivated. The therapeutic goal was to allow the healing of his psychological and physical injuries so that he could return to full functioning.

At the same time he was assisted in gaining insight into the effects of the assault. He came to realize that he had been attempting to deny and suppress certain memories and feelings. His two-year-old daughter and his wife had witnessed the assault. He believed that he had lost his role of family protector in their eyes. He tried to hold back the feelings of panic and fear which he considered to be signs of weakness.

Once he admitted to the feelings he could accept them without judging them good or bad. He re-examined the priorities in his life, especially his overconcern with trying to take sole responsibility for the welfare of his family. He saw that his performance at work was jeopardizing his family's well-being in a practical way. He began concrete action to remedy his deficiencies at work. Rather than constantly reminding his family to be careful he installed an alarm system in his home. He made certain that the family car was in good mechanical condition. He enrolled in weightlifting and self-defense classes and found himself less obsessed with worries about being assaulted again. He cooperated with the police and prosecutors in the arrest and conviction

of the perpetrators of the crime. He began attending to each detail of his job and found himself less troubled by memories of the assault. In other words, he didn't allow an experience from the past to distract him from the necessities of the present. The demands and challenges of daily living hadn't changed so much. There were a few new tasks, related to the assault, that needed to be accomplished.

### Preparing for court testimony

Authorities in the criminal justice system have become aware of past disregard for the welfare and rights of victims. There remains much to be improved in an offender-oriented system. But when the law enforcement and court processes work well, they offer victims a formal structure and means for learning to accept feelings and focus attention on purposeful action. Preparing for testimony in court is a model of preparation to cope with victimization in general.

There are few victims who are not nervous, hesitant and distraught at the prospect of appearing in a public courtroom and describing their ordeal in the presence of defendants. These feelings and attitudes are natural and to be expected. It is unproductive, therefore, to instruct victims to be calm, to try to control their feelings, to avoid becoming upset. Victims should be given permission and encouragement to feel and accept as natural whatever emotions arise. Effective testimony doesn't require suppression of emotions; it does require proper action without becoming caught up in feelings, without becoming distracted by them.

The focus of attention should be on what the witness does in the courtroom and not on how he or she feels in the courtroom. To reinforce this approach the witnesses should be carefully instructed and rehearsed in appropriate behaviors. *Visiting* the courtroom beforehand, *meeting* for pre-trial interviews, *wearing* appropriate clothing, *raising* the right hand for the oath, *adjusting* the chair to the position of the microphone at the witness stand, *facing* the prosecutor and not the defendant during questioning, *listening* to each question as it is being asked and *speaking* audibly are examples of behaviors that merit attention.

If witnesses are free to feel and accept whatever emotions arise while testifying, cling to the purpose of giving a truthful and accurate account of what occurred and behave according to their purpose their credibility

is likely to be great. Both coherent testimony and honest emotions are necessary to communicate sincerity.

Moritists instruct their clients to avoid overinvestment in the outcome of their actions. Sometimes we have no control over the outcome of a project no matter how hard we work to achieve it. Furthermore, if a person focuses too much on emotions or on anticipated results there is distraction from responding appropriately to what is occurring moment by moment. Outcomes are important to us, but they can be jeopardized if what needs doing fails to get full attention.

In court testimony, conviction is viewed as the overall goal by the prosecutor and victim, but each aspect of testimony has its own immediate purpose. Even if conviction is not achieved the subgoals can be considered successful.

#### Living beyond victimization

Morita psychotherapy is built upon a lifeway. It is a character-building process. A word often associated with this approach is *norikoeru*, which means, in Japanese, to climb over or to surmount something. Some barriers in life cannot be removed, torn down or ignored. Victimization is one such barrier. The footholds of acceptance, purpose and action aid us in climbing over life barriers. Not only do they help in coping with the trauma and aftermath of victimization and with the lengthy criminal justice process, but they represent life skills appropriate to a broad range of situations.

Victimization can mean the opportunity for personal development. Consistency and power come from the commitment to change our lives according to clear purposes and diligent action, not from fleeting emotions and unrealistic thinking. In other words, crime victims can be offered more than temporary relief. They can receive a philosophical perspective and effective tools for constructively meeting whatever life brings.

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## **WHAT EVERY VICTIM WITNESS COORDINATOR NEEDS TO KNOW ABOUT THE MEDICAL NEEDS OF CHILD SEXUAL ABUSE VICTIMS**

National Symposium on Victims of Federal Crime  
11 February 1997

### **I. The Process Of Disclosure Of Child Sexual Abuse:**

- A) Excellent review article by Sorensen and Snow, How Children Tell: The Process of Disclosure of Child Sexual Abuse. Child Welfare, Volume LXX, Number 1, January-February 1991
- 1) Identified four progressive stages of disclosure: denial, disclosure, recantation, and reaffirmation.
  - 2) Preschooler children were more apt to disclose accidentally, such as after exposure to the perpetrator, sexualized behaviors, inappropriate statements, behavioral indicators.
  - 3) Adolescents were more likely to disclose purposefully, after education programs in school, peer pressure, departure of offender, or out of anger.
  - 4) Of the confirmed cases of child sexual abuse, 75% of the children initially denied it.
  - 5) Just 7% of the children initially denying abuse went on to actively disclose.
  - 6) Tentative disclosure was seen in 78% of the children. Most of the children continued to give more information over time.
  - 7) Only 11% of children actively disclosed the abuse without any denial or hesitancy.
  - 8) In 22% of the confirmed cases, the children later recanted.
  - 9) Of those recanting, 92% later reaffirmed the allegations of abuse.

### **II. The Emotional And Physical Impact Of Child Sexual Abuse On The Victims And Their Families**

- A) No typical profile, a continuum of emotional and physical symptoms and signs.
- B) Definition: Sexual abuse is engaging a child in sexual activity that:
- 1) the child cannot comprehend and is developmentally unprepared
  - 2) for which the child cannot give informed consent
  - 3) and violates society's laws and mores.
- C) An interpersonal event that shapes how the child develops, self concepts, and esteem.
- D) Wide ranges of statistics of incidence:
- 1) Finkelhor reports 6-62% of children are molested by adulthood. He found that between 2.5 and 8.7% of boys admitted sexual abuse during childhood.
  - 2) Yet there is considerable data to suggest that boys significantly under-report sexual molestation. Abel et al, questioned child sex offenders and found that 83% of their victims were boys.
  - 3) Studies from Canada on the high end of the spectrum, with 50% of women and 33% of men molested during their lifetime, mostly in childhood.

- 4) Russell, in San Francisco found that 38% of women admitted to sexual assault involving sexual bodily contact by the age of 18 years.
- 5) In 1991, the AAP estimated that 1/100 children are the victims of sexual abuse/yr.
- 6) Most experts feel the likely prevalence is approximately 1 of every 3-4 girls and 1 of every 4-5 boys are sexually abused by adulthood.

E) Behavioral indicators (any age) and non-specific complaints:

- |                                |                                 |
|--------------------------------|---------------------------------|
| * abdominal pain               | * anorexia                      |
| * headaches                    | * constipation                  |
| * diarrhea                     | * dysuria (painful urination)   |
| * enuresis (urinary accidents) | * vomiting                      |
| * encopresis (stool soiling)   | * changes in school performance |
| * poor self esteem             | * aggression                    |

F) Preschool complaints:

- |                        |                           |
|------------------------|---------------------------|
| * regressive behaviors | * excessive masturbation  |
| * enuresis             | * clinginess              |
| * speech delays        | * psychomotor retardation |

G) Latency age complaints:

- |             |                                |
|-------------|--------------------------------|
| * tics      | * lying                        |
| * phobias   | * depression                   |
| * anxiety   | * stealing                     |
| * dizziness | * declining school performance |

H) Adolescent complaints:

- |                    |                                     |
|--------------------|-------------------------------------|
| * runaway behavior | * drug, inhalant, and alcohol abuse |
| * promiscuity      | * suicidal ideation or attempts     |
| * prostitution     |                                     |

I) Despite all of this, some children do well and have little or no sequelae.

J) For those that do have long term sequelae:

- 1) Emotional, cognitive, interpersonal, and posttraumatic stress including anxiety, depression, somatization, hostility, substance abuse, suicidal ideation, and self-destructive tendencies. They have poor self esteem, guilt, helplessness, the inability to enter into trusting relationships, or deal with intimacy. They not uncommonly enter into dysfunctional, abusive adult relationships and may be unable to protect their own children from abuse as well. They may also suffer sleep disturbances, inability to focus and concentrate, and memory problems.

### III) The Forensic Medical Evaluation:

A) When should it be done and who should do it? Patient triage:

- 1) ER evaluation if: <72 hrs since the assault or if obvious signs of trauma.
- 2) Urgent examination if: bruises, lacerations, edema, vaginal discharge, vaginal bleeding, rectal bleeding, systemic illness, anogenital pain, extreme parental anxiety.
- 3) Primary care provider OK in the following cases: teenaged victim, peer touching, enuresis or encopresis evaluation, dysuria, sexually active teen, behavioral problems, painful defecation, inflamed or tender bottom.
- 4) Scheduled appointment with a well trained specialist is encouraged for: children with disclosures of abuse in the past, contact with a known sex offender but no disclosures yet, follow-up appts for abnormal exams by others, recent (<72

hrs) assault, concerns about STDs, sibling of victim, overt sexual play or statements, needs exam under anesthesia.

B) Expedient evaluation:

- 1) Niggeman showed that delays in obtaining the physical examination decreases the likelihood of positive findings:
  - a) <24 hours after penetrating assault 36% had evidence of genital trauma
  - b) >24 hours after penetrating assault only 13% had evidence of trauma
- 2) Dejong and Finkle, Paradise, and Tipton:
  - a) Semen and saliva are unlikely to be detected 72 hours after sexual assault, especially if the victim has bathed, urinated, defecated, or laundered clothing.

C) Examination environment:

- 1) Comfortable and secure surroundings (avoid ERs if possible)
- 2) Knowledgeable and compassionate multidisciplinary team
- 3) Crime victim advocate
- 4) Child friendly environment (pillows, drapes, stuffed animals, etc.)
- 5) Adequate lighting, magnification, medical photography
  - a) Photocolposcope
  - b) 35 mm camera with ring flash

D) Physical Examination Techniques:

- 1) Patient positions:
  - a) lap
  - b) frog-leg supine
  - c) prone knee chest
  - d) dorsal lithotomy
- 2) Inspection of the introitus:
  - a) lateral separation
  - b) traction

E) Victim and Parent Reaction

- 1) The majority of children do very well and are not traumatized
- 2) Some children are uncooperative for any PE, let alone this kind
- 3) Rarely a child will dissociate during the anogenital exam
- 4) Parents fear painful, intrusive evaluations, humiliation, and insensitivity

F) What should be included in the forensic medical report:

- 1) A summary of the presenting history and physical complaints given by the child's parents or guardians
- 2) As verbatim as possible account of the child's disclosures to the examiner
- 3) Past medical history
- 4) Review of systems
- 5) Developmental history
- 6) Social history
- 7) Family history
- 8) Physical examination of entire body with special reference to a thorough anogenital examination, including if photos were taken, measurements, and listing of all parts examined and the findings in each area
- 9) Laboratory studies performed (if indicated)
- 10) Forensic specimens obtained (if indicated)
- 11) Assessment or Impression with the physician's interpretation of the history, physical findings, and laboratory data
- 12) Plan: Safety of child is primary, referrals made, follow-up if needed

**IV) Understanding The Results Of The Medical Examination--What Does All Of This Mean?**



**A) Hymenal tissue:**

- 1) Jenny et al, Mor & Merlob:
  - a) In the absence of severe and multiple congenital anomalies, all girls have hymens at birth
  - b) Approximately 22,000 newborn females in studies, all had hymens
  - c) Even with total vaginal agenesis, hymenal tissue found
  - d) No reported cases of isolated congenital absence of the hymen
- 2) Woodling & Kossoris:
  - a) Accidents, masturbation, tampon use are unlikely to cause injury to the hymen or internal genital structures
- 3) Stewart:
  - a) No differences in the genital exams of adolescents who use tampons or not
- 4) Tipton:
  - a) Labial and clitoral masturbation does not cause hymenal injury

**B) Female Genital Anatomy:**

- 1) Pokorny and Kozinetz described three basic types of hymens:
  - a) annular(circumferential, more common at birth, many become crescentic)
  - b) crescentic(crescent shaped and more common as girls grow)
  - c) fimbriated ( folded, redundant, with fingerlike projections)  
~~redundant tissue can look like cuffs, tags, ridges, wings, bands~~
- 2) Herman and Giddens found that in girls less than 10 yrs old:
  - a) 38.5% had crescentic hymens
  - b) 32% had annular hymens
  - c) 17.7% had fimbriated hymens
- 3) Rarer hymenal variants:
  - a) septate
  - b) imperforate
  - c) cribiform
  - d) high posterior rims
  - e) other
- 4) Examination position and traction or separation may alter the shape of the hymen as well as the hymenal horizontal diameter
- 5) Congenital variants:
  - a) peri-urethral bands, perihymenal tethers
  - b) intravaginal ridges behind hymen creating a mound on the hymenal rim
  - c) perianal skin tags in the midline
  - d) diastasis ani (a smooth wedge shaped area in the midline of the anus)
  - e) linea vestibularis (variation of the muscles below the posterior aspect of the vaginal vestibule)

**C) Estrogen effects (Tanner or sexual maturity staging):**

- 1) Maternal hormones trigger infant girls to produce their own hormonal sequence, transiently, making the hymen thick, pale pinkish white, redundant, and often associated with a small amount of clear to whitish discharge until the age of 2-4 years
- 2) Latency aged girls have thinner, translucent, redder hymens that appear like several sheets of red colored wax paper on top of each other with a sharp distinct internal orifice, at this stage the hymen is exquisitely sensitive to touch
- 3) With puberty, the estrogen once again thickens the hymen, it becomes more redundant, accompanied by the clear to whitish discharge, and becomes less sensitive to touch. Hymenal injury can be obscured by estrogen effects.

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**D) Conditions which mimic sexual abuse:**

- 1) Lichen sclerosus et atrophicus: manifests as alarming sub-epidermal hemorrhages of the genital and perianal area following minor trauma, associated with hour glass shaped peri-genital hypopigmentation, with atrophic (thinned) skin and occasional hemorrhagic bullae (blisters).
- 2) Straddle injuries: pelvic skeleton and the labia protect the hymen from injury, usually trauma is on the mons pubis, labia majora > labia minora, and posterior fourchette. Rare to see hymenal disruption unless straddling an upright object which penetrates into the vagina upon impact.
- 3) Congenital hemangiomas
- 4) Streptococcal infections
- 5) Chronic constipation
- 6) Perianal Crohn's disease
- 7) Hemolytic uremic syndrome
- 8) Postmortem anal dilatation

**E) Physical findings of sexual abuse:**

- 1) Spectrum of findings varies with:
  - a) type of abuse (fondling, oral contact, penetration, etc)
  - b) objects or body parts used
  - c) age of the child
  - d) position during the assault
  - e) force used
  - f) lubricants
  - g) number of episodes of abuse
  - h) time lapsed between assault and examination
- 2) Non-specific findings:
  - a) edema, erythema, hymenal mounds, labial adhesions, vaginal discharge, linea vestibularis, hymenal tags, midline anal skin tags, anal dilatation when the child needs to defecate.
- 3) Concerning findings:
  - a) irregular avascular areas, enlarged hymenal diameter, <1mm of posterior rim, acute abrasions of the labia, vestibule, or posterior fourchette, genital warts in >24 month olds, chlamydia in >44 month olds, marked anal dilatation without stool, acute bruising, multiple anal fissures.
- 4) Suggestive findings:
  - a) acute submucosal hemorrhages of the labia or hymen, acute bruising or hematomas of the labia, vulva, etc, lacerations or scars in the fossa or fourchette, notches in the hymen between 4 and 8 o'clock, genital herpes, trichomonas in >12 month olds, delta shaped anal scars
- 5) Specific findings:
  - a) chemical evidence of semen, sperm, gonorrhea in >12 month olds, +HIV with no other history, syphilis with no other history, lacerations through hymen and posterior fourchette, absence of the hymen in the posterior regions confirmed in the knee chest position, signs of penetrating vaginal or anal injury, deep peri-anal lacerations or scars
- 6) Emans et al examined 305 girls:
  - a) 42% routine health exams, 39% hx of sexual abuse, 9% vaginal complaints
  - b) hymenal transections, tears, and signs of acute trauma were found exclusively in abuse victims
  - c) hymenal tears exclusively found in patients reporting painful vaginal penetration or bleeding

- d) scars, synechiae, attenuated hymens, bumps in lower half of the hymenal ring were seen predominantly in girls reporting abuse
- 7) Enlarged hymenal diameters are not conclusive proof of sexual abuse
- a) hymen is elastic, changes with age and position, and traction
- b)
- | Age    | Size range | Max. HD |
|--------|------------|---------|
| 2-4 yr | 3.9-5.2 mm | 8 mm    |
| 5-7 yr | 4.2-5.6 mm | 9 mm    |
| >7 yr  | 5.7-7.3 mm | 11 mm   |
- 8) Hymenal findings:
- a) White et al studied 242 girls evaluated for sexual assault:
- \* 47% with a + history or STD had HD > 4 mm
  - \* 53% of total, including 27% with penetration, had HD < 4 mm
- b) Muram studied 31 assaulted girls in which all of the perpetrators confessed 18/31 confessed to vaginal penetration:
- \* 45 % had mild to significantly abnormal findings on exam
  - \* 26% had non-specific findings
  - \* 29% had no findings suggestive of abuse
- 9) Patterns of Injury:
- a) Fondling: erythema, edema, abrasions
  - b) Penetration: tears, scars, rolled thickened hymenal rim, notches, clefts, attenuation, changes in vascular patterns
  - c) Digital penetration: may cause anterior > posterior changes
  - d) Penile penetration: posterior rim changes, esp. 4-8 o'clock
  - e) Straddle injury: mons, labia, clitoris
  - f) Masturbation: clitoris, labia, hymen too sensitive to touch

**F) Male examinations:**

- 1) Injuries to the penis or scrotum occur in only 1-7% of cases
- b) Findings: erythema, rashes, bites, edema, ecchymosis
- c) Oral-genital contact and masturbation usually leave no marks

**G) Anal examination:**

- 1) Pressure at sphincter can feel like penetration
- 2) Digital more common than penile penetration
- 3) Anal sphincter very flexible and elastic
- 3) Midline findings can be normal variants
- 4) Anal tags can be congenital or traumatic
- 5) Concerning findings: acute edema or erythema, reflex dilatation without stool in vault, poor tone, large fissures, tears, scars, unusual pigmentation, non-midline skin tags
- 6) Must corroborate with history: gaping opening may just mean the need to defecate, tone improves with time, findings may change with number of assaults, degree of force used, size of object used, lubricants, and relaxation of victim
- 7) Best indicators of abuse are: corroboration of findings with the hx, non-midline scars or tags, irregular orifice, dilatation to >20 mm without stool

**H) Healing:**

- 1) Denuded mucosa heals at a rate of 1 mm/day in depth
  - a) many superficial injuries are healed in 24-48 hours
  - b) most injuries from fondling, attempted penetration are healed in 4-5 days
- 2) Deeper lacerations heal by granulation, taking up to 60 days
  - a) these healed areas sometimes scar, thicken, or contract

3) Many GU injuries heal completely without scarring or distortion of the tissues

**I) Sexually transmitted diseases:**

- 1) Transmission of STDs outside the perinatal period by nonsexual means is rare and reportable
- 2) DeJong and Finkle: when perinatal transmission is ruled out, syphilis and gonorrhea infections in children are diagnostic of sexual abuse
- 3) Chlamydia acquired at birth can persist for 1-2 years in the genital, pharyngeal, and anal area
  - a) it is an obligate intracellular parasite
  - b) transmission from fomites has never been documented
  - c) best collected with dacron swabs so as not to disrupt the cell membranes
  - d) best test is culture; microtrak or chlamydiazyme quick tests have high false positive rate and should not be used in children
- 4) Trichomonas:
  - a) can persist for several months after birth
  - b) fomite transmission possible but never documented
- 5) Human papilloma virus:
  - a) can remain latent for at least 24 months after birth
  - b) fomite transmission and auto inoculation are possible
  - c) some types can lead to cervical and vulvar cancer in adults
- 6) Herpes simplex virus I and II:
  - a) can be transmitted at birth or through sexual abuse
  - b) culture lesions
  - c) check for rising herpes antibody titer for several months after assault with new infection to document recent onset, not congenitally acquired

**J) Laboratory Specimens, Studies, and Forensics:**

- 1) With + hx or + PE, culture the oropharynx, vagina, penile urethra, and rectum for:
  - a) Neisseria gonorrhea
  - b) Chlamydia trachomatis
- 2) Wet preps to look for motile sperm (non-motile sperm has been reported to have been found in the vagina up to 17 days after intercourse, but it is rare to see it beyond 48-72 hours), clue cells, trichomonas from orifices
- 3) Urine HCG, UA, urine culture
- 4) RPR, hepatitis screen (some parts + if immunized), HIV screen
- 5) Acid phosphatase from prostatic secretions (best recovery at <2-3 days, but has been rarely seen up to 5 days after assault), or p30 protein or MHS-5 (also seen in semen) swabs must be air dried, kept in chain of custody, stored in paper not plastic envelopes
- 6) Saliva soaked filter paper for ABO secretor status
- 7) Gram stain of discharge to look for bacteria
- 8) Frozen serum sample for later studies
- 9) Tzank prep for herpes of Pap smear in older girls
- 10) HSV serology or culture
- 11) HPV culture
- 12) Scalp, pubic hair combing and plucked hair standards
- 13) For DNA analysis, must be stored at temps below -10 degrees C for preservation of the integrity of the sample
- 14) Swab bite marks with saline soaked dacron or cotton applicator, air dry to look for genetic markers
- 15) Wood's lamp—semen fluoresces a blue-green to orange color, use caution, other oily substance also fluoresce
- 16) Toluidine blue stain is picked up by superficial abrasions, too small to be seen with

- the naked eye without the stain, helpful in acute cases
- 17) Acetic acid 2% applied to concerning area will turn undetectable HPV lesions white

#### V) Glossary Of Medical Terminology:

- Abrasion:** an area of skin or mucus membrane with top cell layers removed through trauma
- Adnexa:** the area on either side of the uterus, including the ovaries, ovarian tubes, ligaments
- Anal verge:** the region where the anal mucus membranes meet the anal skin
- Anterior commissure:** the area where the labia majora come together near the pubis
- Anus:** the distal portion of the GI tract where the stool is evacuated from the body
- Cervix:** the lowermost portion of the uterus (womb)
- Clitoris:** small, elongated, sensitive structure in females near the pubis
- Contusion:** superficial injury without laceration, a bruise
- Corona:** the rounded base rim of the head of the penis where the glans and shaft meet
- Ecchymosis:** blood under the skin resulting in a bruise
- Fossa navicularis:** the region of the female vestibule between the posterior rim of the hymen and the posterior fourchette where the labia come together distally
- Glans:** the top portion (head) of the male penis
- Hymen:** a membrane which partially covers the opening into the vagina from the outside
- Labia majora:** elongated folds of tissue on either side of the female external genitalia
- Labia minora:** smaller folds of tissue just inside the labia majora
- Laceration:** an injury resulting from tearing of tissue
- Linea vestibularis:** a whitish, avascular midline finding extending from the posterior fourchette toward the anus in some females
- Midline raphe:** midline ridge between the posterior fourchette and the anus, in males it can extend from the penis, down the scrotum, to the anus
- Mons pubis:** rounded, fleshy mound of tissue at the lower middle abdomen over the pubic bone, in adults it is covered with hair
- Ovary:** the female reproductive organ which produces eggs and hormones
- Penis:** the male sexual organ, with the urethra at the tip for release of urine or semen
- Perineum:** the area between the anus and the posterior commissure
- Petechiae:** small, flat, red to purple spots under the surface of the skin or internal organs caused by capillary hemorrhage, caused by trauma, increased pressure, or infection
- Posterior commissure or fourchette:** junction of the labia in a female distally (near the anus)
- Prostate:** a male gland which surrounds the neck of the bladder and urethra, it releases the fluid sperm float in and has markers like acid phosphatase, p30 protein, and MHS-5
- Rectum:** the last section of the large intestine which connects to the anus
- Scrotum:** the sack-like pouch of skin in which the testes are found
- Semen:** the fluid released by the male during ejaculation which contains sperm and other secretions from the prostate and seminal vesicles
- Sulcus:** the region where the base of the vestibule joins the lateral walls of the labia minora
- Synechiae:** web-like connections of tissue, adhesions
- Testes:** the male gonads which produce sperm
- Transection:** a cut or tear
- Urethra:** a tube which transports urine from the bladder to the outside
- Urethral meatus:** the opening of the urethra into the female vestibule or the penile tip
- Uterus:** the upside down pear shaped female organ in which babies develop (womb)
- Vagina:** the canal extending from the uterine cervix to the vestibule, ending at the hymen
- Vestibule:** the recessed space at the end of a canal, in females this area is the space between the labia minora in which the urethra, vagina, and hymen are located
- Vulva:** the entire female external genitalia including the labia majora and minora, the mons pubis, clitoris, perineum, and vestibule

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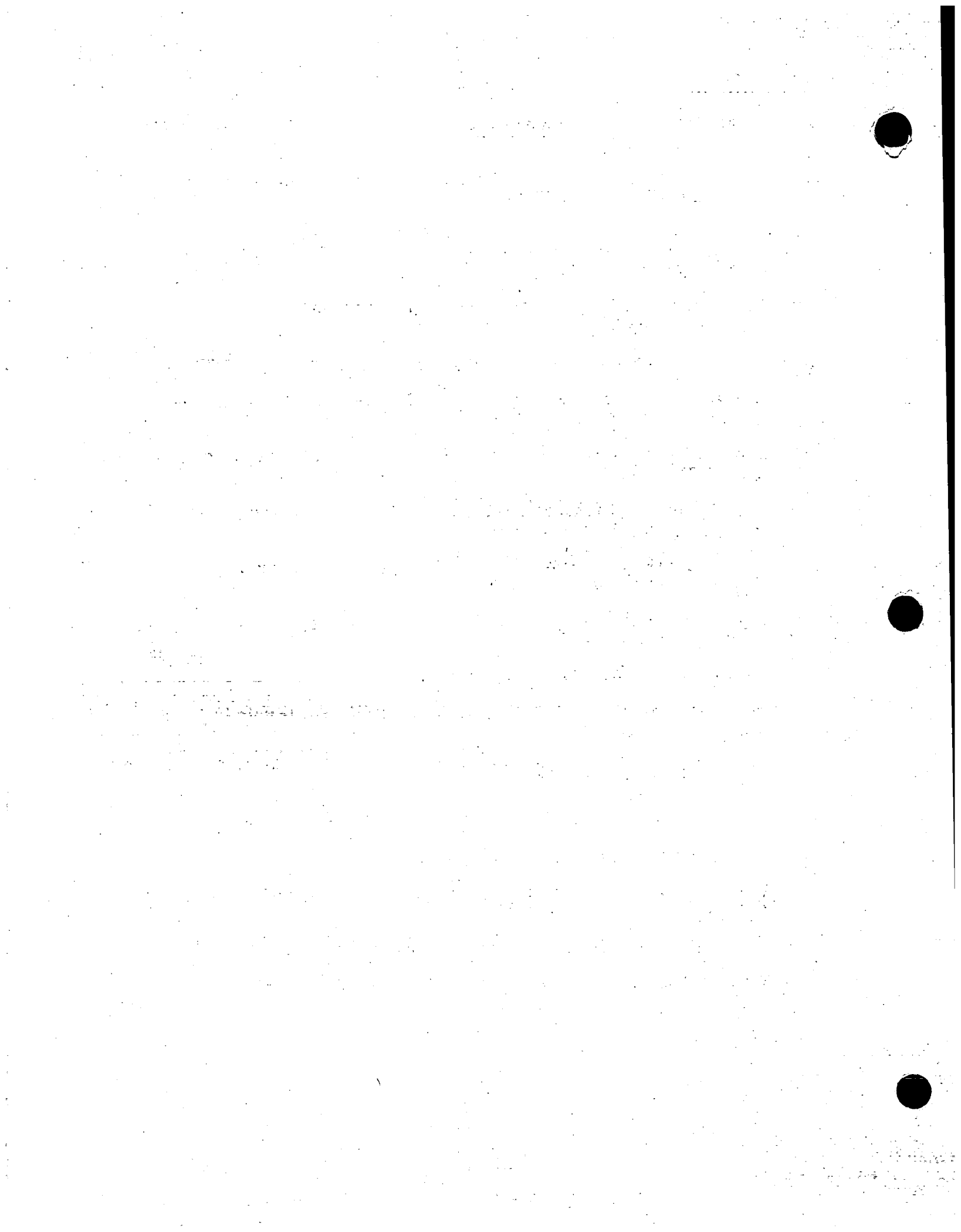
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VICTIM AND WITNESS RIGHTS UNDER THE FALSE CLAIMS ACT

Section 10607 of Title 42, United States Code, provides that at "the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation," a responsible official "shall . . . inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained." This provision would appear to include a right to relief under the qui tam provisions of the False Claims Act.

Whether government officials are obliged to provide such advice to whistleblowers (including qui tam "relators") depends on whether the individual falls within the definition of "victim." Under section 10607(e), a victim is "a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime." In many cases, it appears that a whistleblower will qualify.

For example, whistleblowers often are reluctant participants in unlawful conduct. Frequently, they are employees who have been instructed to commit unlawful acts, and it is not unusual to discover that they have endured substantial emotional trauma as a

result. In some instances, they may have been threatened, demoted or terminated as a result of their reluctance or unwillingness to participate in the crime. In the foregoing cases, they will fit the definition of a "victim" and it appears that government agents must provide notice of potential qui tam remedies.

I also believe it is in the government's interest to provide such advice regardless of whether it is statutorily required. An effective attorney representing a whistleblower can assist the investigation in a number of ways. First, the whistleblower is likely to trust their attorney more than an agent, and will give the attorney a more complete and candid account of their actions. Getting the full story the first time will reduce the possibility of prior inconsistent statements. Second, an attorney can take steps to alleviate the whistleblower's concern about personal criminal liability. Typically, the whistleblower will not be a target of the criminal case, and an attorney can negotiate informal arrangements with the U.S. Attorney's Office to provide the whistleblower with protection and reassurance. This will encourage the whistleblower to come forward and further reduce the likelihood of false exculpatory statements. Third, a private attorney will be able to advise the whistleblower about the False Claims Act protections against retaliation by the target

employer, easing the whistleblower's concerns in this regard and increasing the likelihood that the whistleblower will continue to cooperate fully.

Moreover, a whistleblower with a financial incentive will be more likely to cooperate fully in the investigation. For example, the whistleblower might be willing to participate in an undercover capacity, thereby providing a valuable investigative tool. The whistleblower will also be more willing to be interviewed frequently as the investigation progresses. Of course, the prospect of a reward raises a potential problem regarding the whistleblower's bias, but under most circumstances the whistleblower will have revealed the core of the criminal conduct before retaining counsel and learning about the possible reward.

Finally, Congress passed the qui tam provisions of the False Claims Act because it recognized that much of the fraud against the government would never be detected due to the government's limited investigative resources. The qui tam provisions seek to supplement those resources by creating an incentive for private parties to act in the government's interest. Without such an incentive, a person who blows the whistle on fraud risks their career without any compensating benefit. On the other hand, when a company employee receives substantial payment after disclosing

fraud against the government, it creates a powerful incentive for employees of all government contractors to do the same.

In sum, there are strong legal and practical reasons to inform whistleblowers about their qui tam rights. There are also considerations of basic fairness. Persons who come forward and risk their livelihood deserve compensation. We should not foster a system in which an employee ignorant of the False Claims Act who reports fraud solely out of a sense of duty receives nothing, when a better informed employee who acts solely for financial gain receives a substantial reward.

# FULL FAITH AND CREDIT PROJECT

*A Training and Technical Assistance Project of the  
Pennsylvania Coalition Against Domestic Violence*

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Phone 717/671-4767 - 800/903-0111 ext. 2 - Fax 717/671-5542

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## Full Faith and Credit Provision of the Violence Against Women Act

### A. Statutory overview

The Full Faith and Credit provision of Violence Against Women Act, VAWA, 18 U.S.C. §2265, requires states and Indian tribes to enforce "valid" protection orders issued by foreign states and Indian tribes as if the orders had been issued by the non-issuing, enforcing state or Indian tribe. In other words, whatever the implications of violating a protection order are in the new state or Indian land, these apply to enforcement of the order from the old state or Indian land.<sup>1</sup> In addition, if the person is ineligible for a protection order in new state but she/he was eligible for the protection order in the old state, the new state must still enforce the foreign order.

### B. Valid protection order

A "valid" protection order is defined as a protection order that has been issued by a court which has jurisdiction over the parties and matter under the laws of such state or Indian tribe and in circumstances where the defendant has been given reasonable notice and the opportunity to be heard sufficient to protect that person's right to due process. In the case of ex parte orders, notice and opportunity to be heard must be provided within the time required by state or tribal law, and, in any event, within a reasonable period of time after the order is issued, sufficient to protect the opposing party's right to due process.

### C. Types of protection orders covered by §2265

The full faith and credit provision applies to "any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communication with or physical proximity to, another person, including temporary and final protection orders issued by civil and criminal courts (other than support or child custody orders) . . ." 18 U.S.C.

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<sup>1</sup> Concern currently surrounds the application of this provision on tribal lands as it raises a number of issues which impact on the sovereignty of Indian nations.

§2266. In other words, it extends to temporary and final, civil and criminal protection orders.

#### D. Mutual protection orders

Should the issuing court enter orders of protection against both the plaintiff and the defendant, only the order in favor of the plaintiff/~~constraining the~~ defendant is entitled to full faith and credit unless the defendant filed a separate petition or pleading seeking such an order and the court made specific findings that the defendant, as well as the plaintiff, was entitled to such an order.

This means that a protection order issued in favor of a defendant and against a battered woman who has filed seeking protection should not be given full faith and credit unless the batterer filed a cross or counter petition also seeking an order of protection and the court made specific findings that the defendant was entitled to such an order.

For this reason, it is imperative that advocates fully inform battered women of the ramifications of agreeing to mutual consent orders that include findings of fact that the defendant is entitled to such an order, i.e., that the plaintiff has inflicted acts of abuse upon the defendant.

#### E. Implementation

The full faith and credit provision of the VAWA does not prescribe the specific procedures that a battered woman must follow in order to qualify for interstate enforcement. Nevertheless, a number of states have enacted legislation and established procedures to facilitate full faith and credit implementation. (See FF&C Chart) A battered woman who is planning to relocate to another state should comply in advance with the new state's procedures to ensure proper enforcement of her foreign order.

#### F. Law Enforcement

Police officers should enforce out-of-state protection orders that are presented to them if the orders appear valid on their face. In other words, if a battered woman shows the officer her foreign order, the officer should enforce it as long as it contains both parties' names and has not yet expired. Even if the out-of-state order is uncertified, it should be enforced if it meets the requirements of facial validity.

Many police officers express concern about liability for false arrest if they enforce a foreign order which has not been reviewed by a court in the enforcing state. Officers too often are unaware that they are exposed to liability for failure to arrest if they refuse to enforce a valid out-of-state order. More importantly, police officers should recognize the dangers that battered women face when abusers follow them to another state or tribal land in violation of protection orders. This stalking behavior may evidence acute desperation and a settled intent to use whatever force may be necessary to compel the battered woman

back into a relationship with the assailant. The sharply escalated dangers posed by assailants in interjurisdictional pursuit is best met with vigorous enforcement by law enforcement in whatever jurisdiction a violation occurs.

In response to law enforcement's concerns, a number of states have enacted qualified immunity statutes which protect police officers from liability and enable them to arrest if there is probable cause to believe that a violation occurred. (See Model FF&C Statute)

Even if the battered woman does not have a copy of the foreign order with her, the law enforcement officer should attempt to verify the existence and terms of her order through communication (via telephone, fax, e-mail) with appropriate court or law enforcement personnel in the issuing state or jurisdiction.

If the issuing state has entered the protection order into a centralized database, the officer should be readily able to verify the existence and status of the protection order by contacting the statewide protection order registry.

At the present time, nearly half of the states have established or are developing centrally automated protection order registries. (See FF&C Chart) In 1997, the National Crime Information Center's Protection Order File will be in operation. Once NCIC's registry is in place, a law enforcement officer may access it to verify the status of a foreign protection order.

#### G. Judiciary

Judges need to be familiar with the full faith and credit provision of the VAWA when they are issuing and enforcing protection orders. It may be particularly helpful to law enforcement and courts in other judicial districts if issuing judges craft orders that are explicit, unambiguous, comprehensive and legible.

At the time an order is being issued, the judge should inform both parties orally and in writing that the protection order is valid in all fifty (50) states, the District of Columbia, tribal lands, and U.S. territories. More specifically, the judge should advise the party against whom the order is being entered that violations of the protection order are subject to both state and federal criminal penalties. (See Model Notices to Defendant)

At the time an order is being enforced, the judge should follow the procedural enforcement mechanisms of the enforcing (non-issuing) state. In other words, if the judge determines there has been a violation of the order, he/she should impose whatever sanctions are available under the laws of the enforcing state for that type violation.

The judge should enforce the substantive relief that was granted by the issuing state even if the order provides relief that would not be available under the enforcing state's laws. This means that even if the battered woman is ineligible for a protection order in the enforcing state, the judge must enforce her order as long as the issuing judge had the requisite personal and subject matter jurisdiction.



The enforcing judge can determine if the out-of-jurisdiction protection order is still in full force and effect or can obtain clarification as to any questions about the content of the order in a number of ways. In particular, the judge may contact the issuing court in the state where the protection order was entered. Moreover, if a statewide or national protection order registry is in place, the judge may confirm the validity of the foreign order by accessing one or both of these databases.

Beyond this, as a matter of judicial courtesy, an enforcing judge may want, at a minimum, to notify the issuing judge of the enforcement proceedings in the foreign state. Information about the enforcement action will be invaluable to the issuing judge should the case come before him/her for modification, extension, or termination. Furthermore, conversation with the issuing judge may enhance the enforcing court's insight into the circumstances giving rise to the order and the rationale for specific relief awarded. Judicial communication will advance the protective intent of the codes in the states and tribal nations involved.

An additional method for facilitating interstate enforcement of protection orders is the use of a uniform certification form. The Full Faith and Credit Project of the Pennsylvania Coalition Against Domestic Violence has devised such a form which may be attached to a protection order at the time of issuance. The certification form confirms that the protection order has been entered in compliance with the jurisdictional and due process requirements of the VAWA. (See Model Certification Form)

## H. Custody

Protection orders often contain provisions granting custody of the parties' minor children to the battered parent. Many civil protection order statutes include temporary custody as one form of available relief since, in the absence of a court order, abusers may threaten to take the children as a means to coerce reconciliation or to punish and control the battered parent. Temporary custody provisions within civil protection orders permit battered parents to avert the retaliatory taking of children and to enhance the safety of both the children and the battered parents. Similarly, visitation provisions are often included in protection orders to prevent any future threats or violence which might result from unprotected access or uncertainty about access arrangements (thus requiring that the victim negotiate the terms and conditions of visitation arrangements with the batterer).

However, currently there is dispute about whether custody and visitation provisions in all protection orders are subject to the full faith and credit mandate of the VAWA. Some, including staff within the United States Department of Justice, have opined that such provisions are entitled to full faith and credit when issued for safety purposes within civil protection orders, but not when restraining orders are issued pursuant to custody and visitation matters filed in divorce proceedings. Other persons submit that the language of the statute explicitly exempts custody and support from the full faith and credit provision in the VAWA. Whichever position eventually prevails, attorneys

and advocates for abused parents must address this potential problem when seeking relief under state or tribal protection codes.

The issue of whether custody awards in protection orders are entitled to interstate enforcement turns on three laws: the Violence Against Women Act (VAWA), the Uniform Child Custody Jurisdiction Act (UCCJA), and the Parental Kidnapping Prevention Act (PKPA). Custody provisions within protection orders are entitled to interstate enforcement if they meet the jurisdictional requirements of the UCCJA and the PKPA, otherwise it may be difficult to obtain interstate enforcement.

Every state has adopted its own version of the UCCJA into state law. Under the UCCJA, there are four possible bases for a state to assert jurisdiction in a custody matter. The first basis is "home state" jurisdiction which is determined by where the child has lived for six (6) consecutive months immediately preceding the filing of the action or, if the child has been wrongfully removed from that state, it remains "home state" for one (1) year. The second is the state where the child and at least one contestant have "significant connections." This basis for jurisdiction, however, may only be invoked if it is in the best interests of the child. The third basis is "emergency jurisdiction" where the child is physically present in the state and is in need of protection from abuse, mistreatment or neglect. Finally, the fourth basis for jurisdiction is where the child is physically present and no other state has jurisdiction. The UCCJA holds "home state" and "significant connections" equal in terms of priority.

The PKPA is federal law, preempting the UCCJA in cases where laws of the issuing and enforcing states conflict. It applies to all interstate child custody cases and requires states to honor sister state's custody and visitation orders, provided they comply with the Act. Under the PKPA there are four bases for the state to assert jurisdiction. These are the same as under the UCCJA; however, the PKPA gives "home state" the highest priority. In other words, "significant connections" under the PKPA applies only if "home state" jurisdiction has been waived. Moreover, no other state may assert jurisdiction when another state has continuing jurisdiction under the PKPA.

Emergency jurisdiction may be confirmed in a non-issuing state, but only temporarily and only to protect endangered children. Some juvenile courts have asserted jurisdiction over children for purposes of protection under the state child protection codes when they conclude that a child who is within the state requires protection of the courts and child protective services in the state to which a parent has fled with the endangered child. The juvenile courts asserting such jurisdiction have articulated that the juvenile code of the asylum state prevails over the PKPA and state custody codes in both states.

In summary, a custody provision within a protection order may not always be easily enforced across state lines. A custody provision in a civil protection order is entitled to full faith and credit if it meets the jurisdictional requirements of the UCCJA and the PKPA. If, however, it does not comply with both laws, it may be difficult to enforce across state lines. Battered women and their

attorneys need to be aware of these issues when seeking custody as part of the relief in a protection order.

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For more information or for technical assistance, contact Seema Zeya, staff attorney for the Project.

## Model Full Faith and Credit Statute

### SECTION 1. Full faith and credit for valid foreign protection order.

Any valid protection order related to domestic or family violence, issued by a court of another state, tribe, or U.S. territory shall be accorded full faith and credit by the courts of this state and enforced as if it were issued in this state.

### SECTION 2. Valid foreign protection order.

A protection order issued by a state, tribal or territorial court related to domestic or family violence shall be deemed valid if the issuing court had jurisdiction over the parties and matter under the law of the state, tribe or territory. There shall be a presumption in favor of validity where an order appears authentic on its face.

A defendant must be given reasonable notice and the opportunity to be heard before the order of the foreign state, tribe or territory was issued, provided, in the case of ex parte orders, notice and opportunity to be heard was given as soon as possible after the order was issued, consistent with due process.

Failure to provide reasonable notice and opportunity to be heard shall be an affirmative defense to any charge or process filed seeking enforcement of a foreign protection order.

### SECTION 3. Exclusion from full faith and credit.

A protection order entered against both the plaintiff and defendant shall not be enforceable against the plaintiff in a foreign jurisdiction unless:

(a) the defendant filed a cross or counter petition, complaint or other written pleading was filed seeking such a protection order and

(b) the issuing court made specific findings of domestic or family violence against both the plaintiff and defendant and determined that each party was entitled to such an order.

### SECTION 4. Statewide Protection Order Registry.

(1) The \_\_\_\_ State police (or other agency designated by the governor) shall establish a statewide registry of protection orders related to domestic or family violence and shall maintain a complete and systematic record and index of all valid temporary and final civil and criminal court orders of protection.

(2) The data fields of the statewide registry shall include, but need not be limited to, the following:

- (i) The names of the plaintiff and any protected parties.
- (ii) The name and address of the defendant.
- (iii) The date the order was entered.
- (iv) The date the order expires.
- (v) The relief granted under \_\_\_\_\_ (specify relief awarded and citations related thereto, and designate which of the violations are arrestable offenses).
- (vi) The judicial district and contact information for court administration for the court in which the order was entered.
- (vii) Where furnished, the Social Security number, date of birth of and description of the defendant.
- (viii) caution indicator stating whether the defendant is believed to be armed and dangerous.
- (ix) Brady record indicator stating whether the defendant is prohibited from purchasing or possessing a firearm under federal law.

(3) The clerk of the issuing court or the clerk of the court where a foreign order of protection is filed shall send, on a form prescribed by the \_\_\_\_\_ State Police (or registry agency designated by the governor), a copy of the protection order to the statewide protection order registry so that it is received within 24 hours of the entry an order issued within the state or the filing of a foreign order. The \_\_\_\_\_ State Police (or other agency designated by the governor) shall enter orders in the statewide protection order registry within eight hours of receipt.

(4) The statewide protection order registry shall be available at all times to inform courts, dispatchers and law enforcement officers of any valid protection order issued within the state or filed as a foreign order for purposes of enforcement in the state.

#### SECTION 5. Filing of foreign protection order.

(1) A plaintiff who obtains a valid order of protection in another state, tribe or U.S. territory may file that order by presenting a certified copy of the foreign order to a clerk of court in the judicial district where the plaintiff believes enforcement may be necessary.

(2) Filing shall be without fee or cost.

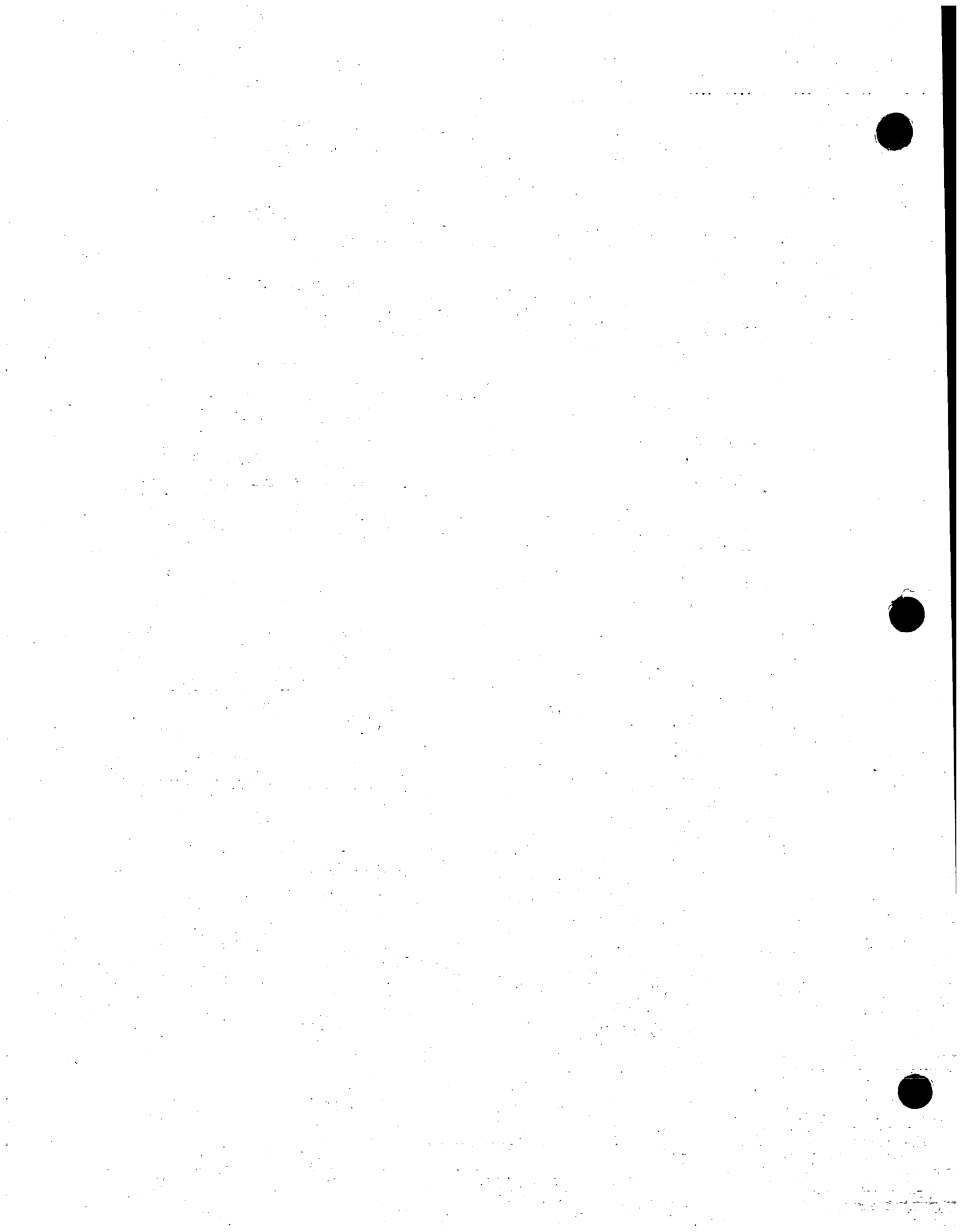
(3) A clerk of court shall forward a copy of the foreign protection order to the local police or sheriff's office and the statewide protection order registry upon application of a plaintiff seeking enforcement.

(4) The clerk shall provide the plaintiff with a copy bearing proof of filing with the court and entry into the statewide protection order registry.

(5) Filing and entry of the foreign order in the statewide protection order registry shall not be prerequisites for enforcement of the foreign protection order.

#### SECTION 6. Law Enforcement

A law enforcement officer may rely upon a copy of any foreign protection order which has been provided to the officer by any source and may also rely on upon the statement of any person protected by a foreign order that the order remains in effect. A law enforcement officer acting in good faith shall be immune from civil and criminal liability in any action arising in connection with a court's finding that the foreign order was not enforceable.



\_\_\_\_\_ (Name), : IN THE \_\_\_\_\_ COURT OF  
 Petitioner, : \_\_\_\_\_ (County/Judicial District)  
 : \_\_\_\_\_ (State/Territory)  
 vs. : CIVIL ACTION - LAW  
 \_\_\_\_\_ (Name), : PROTECTION/RESTRAINING \_\_\_\_\_  
 Respondent. : ORDER  
 : Docket No. \_\_\_\_\_, 199\_\_

## Certification of Protection/Restraining Order

It is hereby certified that the attached is a true and correct copy of the order entered in the above-captioned action on \_\_\_\_\_ (date) and that the original of the attached order was duly executed by the judicial authority whose signature appears thereon. The order expires on \_\_\_\_\_ (date).

The order is :  a civil protection/restraining order  
 OR  a criminal protection/restraining order.

It is further certified that:

(a) the issuing court determined that it had jurisdiction over the parties and the subject matter under the laws of \_\_\_\_\_ (state or Indian tribe).

(b) the defendant was given reasonable notice and opportunity to be heard sufficient to protect the defendant's right to due process before this order was issued; or if the order was issued ex-parte, the court ordered that the defendant be given reasonable notice and opportunity to be heard within the time required by the law of this jurisdiction, and in any event within a reasonable time after the order was issued, sufficient to protect the defendant's due process rights.

(c) the order was otherwise issued in accord with the requirements of the Full Faith and Credit Provisions of the Violence Against Women Act; Title IV, Subtitle B, Chapter 2 of the Violent Crime Control and Law Enforcement Act of 1994. 18 U.S.C. 2265.

(d) the order was issued in accord with the requirements of the Uniform Child Custody Jurisdiction Act of this state/territory and consistent with the strictures of the federal Parental Kidnapping Prevention Act. Parental Kidnapping Prevention Act, Pub. L. No. 96-611, 94 Stat. 3566 (1980).

The attached order shall be presumed to be valid and enforceable in this and other jurisdictions.

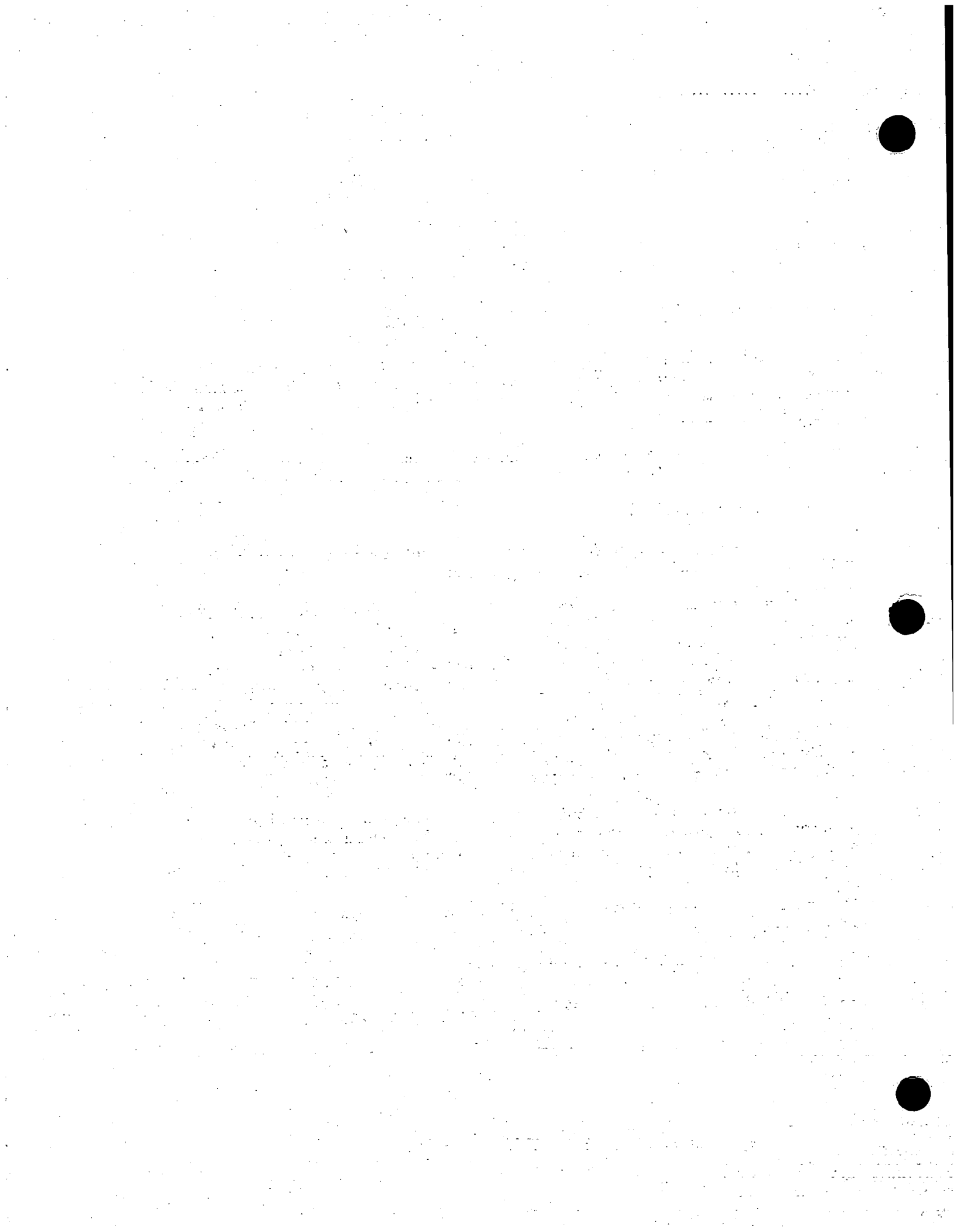
Signature of Clerk of Court or other authorized official: \_\_\_\_\_

Judicial District: \_\_\_\_\_ Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Date: \_\_\_\_\_

Seal:





# DRAFT/DRAFT/DRAFT

## Rationale for Certification Form

### Civil Protection/Restraining Orders

A universally recognized and utilized certification form for civil protection/restraining orders will both normalize and expedite full faith and credit and enforcement of these orders in non-issuing states, pursuant to the provisions of the VAWA, for the following reasons:

- Police will learn to rely on the form and seal when orders are presented by battered women seeking enforcement. Certification in a recognizable/predictable manner will, arguably, enhance reliability or at least the appearance thereof. This *prima facie* reliability will help limit exposure of officers and departments to liability for false arrest or failure to arrest.
- The certification form will lend support to a presumption of the validity of foreign orders. Thus, certified orders would be enforceable by law enforcement without registration in the non-issuing state or without prior review by a court on the issue of validity. The certification form will hopefully prevent the promulgation of state or local court rules that require registration [or otherwise filing/review] of foreign orders before enforcement (as is the practice with money judgments; custody, support, divorce, etc. orders). This is necessary for at least two reasons; first, the emergency nature of the need for immediate enforcement, and, second, the burden that registration/filing/review places on battered women who may not know of the requirement for same before enforcement, who may not be able to accomplish the registration/filing/review process pro se or without payment of prohibitive fees and who would not, therefore, be able to access the mechanisms of enforcement. The burden of pre-enforcement registration, etc. on the courts would not be insubstantial, and the process might occasion delays that would pose grave risks to battered women.
- Assuming the *prima facie* validity of a order thus certified, it is our position that the non-issuing court need not/should not inquire as to the validity of a certified temporary or final order until such time as the defendant challenges the validity or duration of the foreign order.

However, when validity is challenged, the certification will assist the prosecutor's or court's communication with the issuing court.

- The certification form puts trial court judges on notice that orders should be issued pursuant to the requirements of the FFC provisions of the VAWA including personal and subject matter jurisdiction, notice to defendant, opportunity to be heard, and no mutual orders absent cross-filings and findings of abuse.

The form offers mini-judicial notice/education that judges and clerks ought to be familiar with the FFC provisions and operate in accord therewith. We hope that far fewer inappropriate 'mutual' orders will be issued; and the limited safeguards against such orders in VAWA may accrue to the benefit of abused women who never require, as well as those who need, enforcement in a non-issuing jurisdiction.

- Where courts extend full faith and credit to orders of issuing states, the burden on the judicial resources of the foreign state may be reduced by eliminating the necessity of battered women filing anew for civil restraining/protection orders when relocating to or working in a second state. Court administrators will soon identify the economies associated with full, faith and credit compliance, as expedited by the certification form.
- With the provision re: UCCJA compliance, temporary custody orders contained in civil protection/restraining orders are more likely to be deemed valid custody orders; both so that maximum enforcement powers can be applied should the abuser abduct the child and so that women may have the limited, but significant, benefit of a valid custody order if they leave the issuing jurisdiction to protect the child or themselves, e.g. courts in a non-issuing state may initially conclude that they have emergency jurisdiction over the child, relying upon the certification form and the custody award in the attached protection/restraining order.
- The presumption of validity will explicitly inform police that the order is enforceable.

	:	IN THE _____ COURT OF
Plaintiff	:	_____ (County/Judicial District)
	:	_____ (State/Territory)
	:	
	:	CIVIL ACTION - LAW
v.	:	PROTECTION/RESTRAINING ORDER
	:	
	:	Docket No. _____, 199__
	:	
Defendant	:	

**EMERGENCY PROTECTION FROM ABUSE  
ORDER**

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**NOTICE TO THE DEFENDANT**

IF YOU VIOLATE THIS COURT ORDER, YOU WILL BE [ insert state criminal/civil penalty ].

PURSUANT TO THE VIOLENCE AGAINST WOMEN ACT OF 1994, 18 U.S.C. § 2265, THIS ORDER IS ENFORCEABLE IN ALL FIFTY (50) STATES, THE DISTRICT OF COLUMBIA, TRIBAL LANDS AND U.S. TERRITORIES. VIOLATION OF THIS ORDER MAY SUBJECT YOU TO FEDERAL CHARGES AND PUNISHMENT. 18 U.S.C. §§ 2261(a)(1), 2262(a)(1) and (2). MOREOVER, IF A FINAL ORDER SHOULD BE ENTERED AGAINST YOU AFTER HEARING, YOU MAY BE SUBJECT TO FEDERAL PENALTY FOR POSSESSING, TRANSPORTING, OR ACCEPTING A FIREARM UNDER THE 1994 AMENDMENT TO THE GUN CONTROL ACT, 18 U.S.C. § 922(g)(8).

## NOTICE TO THE DEFENDANT

PURSUANT TO THE VIOLENCE AGAINST WOMEN ACT, 18 U.S.C. § 2265, THE TEMPORARY ORDER OF THE COURT SHALL BE GIVEN FULL FAITH AND CREDIT IN ANY OTHER STATE OR TRIBAL LAND AND SHALL BE ENFORCED AS IF IT WERE AN ORDER ISSUED IN THAT STATE OR TRIBAL LAND.

IF YOU TRAVEL ACROSS STATE OR TRIBAL LAND LINES WITH THE INTENT TO INJURE THE PLAINTIFF AND THEN INTENTIONALLY COMMIT A CRIME OF VIOLENCE CAUSING BODILY INJURY TO THE PLAINTIFF, YOU MAY BE CONVICTED OF COMMITTING A FEDERAL OFFENSE UNDER THE VAWA, 18 U.S.C. § 2261(a)(1). YOU MAY ALSO BE CONVICTED OF COMMITTING A FEDERAL OFFENSE IF YOU CAUSE THE PLAINTIFF TO CROSS STATE OR TRIBAL LAND LINES FOR THIS PURPOSE. 18 U.S.C. § 2262(a)(2).

IF YOU TRAVEL ACROSS STATE OR TRIBAL LAND LINES WITH THE INTENT TO VIOLATE THE TEMPORARY PROTECTION ORDER AND SUBSEQUENTLY VIOLATE SUCH ORDER, YOU MAY BE CONVICTED OF COMMITTING A FEDERAL OFFENSE UNDER THE VAWA, 18 U.S.C. § 2262(a)(1). YOU MAY ALSO BE CONVICTED OF COMMITTING A FEDERAL OFFENSE IF YOU CAUSE THE PLAINTIFF TO CROSS STATE OR TRIBAL LAND LINES FOR THIS PURPOSE. 18 U.S.C. § 2262(a)(2).

	:	IN THE _____ COURT OF
Plaintiff	:	_____ (County/Judicial District)
	:	_____ (State/Territory)
	:	
v.	:	CIVIL ACTION - LAW
	:	PROTECTION/RESTRAINING ORDER
	:	
	:	Docket No. _____, 199__
Defendant	:	

**TEMPORARY ORDER OF THE COURT**

**NOTICE OF HEARING AND ORDER**

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must appear at the hearing scheduled herein. You are warned that if you fail to do so, the case may proceed without you and a Final Order may be entered against you for the relief requested in the Petition. You may lose property, money, or other rights important to you.

If a copy of the TEMPORARY ORDER OF THE COURT is attached, you MUST obey it. If you disobey this Order, the police may arrest you.

If a FINAL PROTECTION ORDER is entered against you at the hearing, the provisions of the Violence Against Women Act listed on the following page will continue to apply to the Order. Moreover, you may be prohibited from possessing, transporting, or accepting a firearm under state law and, if a FINAL PROTECTION ORDER is entered against you, you may be prohibited from possessing, transporting, or accepting a firearm under federal law, 1994 amendment to the Gun Control Act, 18 U.S.C. § 922(g)(8).

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. YOU HAVE THE RIGHT TO HAVE AN ATTORNEY REPRESENT YOU AT THE HEARING. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU MAY GET LEGAL HELP.**

\_\_\_\_\_ County Lawyer Referral Service  
 [insert Street Address]  
 [insert City, State and ZIP]  
 [insert Phone Number]

	:	IN THE _____ COURT OF
Plaintiff	:	_____ (County/Judicial District)
	:	_____ (State/Territory)
	:	
	:	CIVIL ACTION - LAW
v.	:	PROTECTION/RESTRAINING ORDER
	:	
	:	Docket No. _____, 199__
	:	
Defendant	:	

**FINAL ORDER OF THE COURT**

**NOTICE TO THE DEFENDANT**

IF YOU VIOLATE THIS COURT ORDER, YOU WILL BE [ insert state criminal/civil penalty].

PURSUANT TO THE VIOLENCE AGAINST WOMEN ACT OF 1994, 18 U.S.C. § 2265, THIS ORDER IS ENFORCEABLE IN ALL FIFTY (50) STATES, THE DISTRICT OF COLUMBIA, TRIBAL LANDS AND U.S. TERRITORIES.

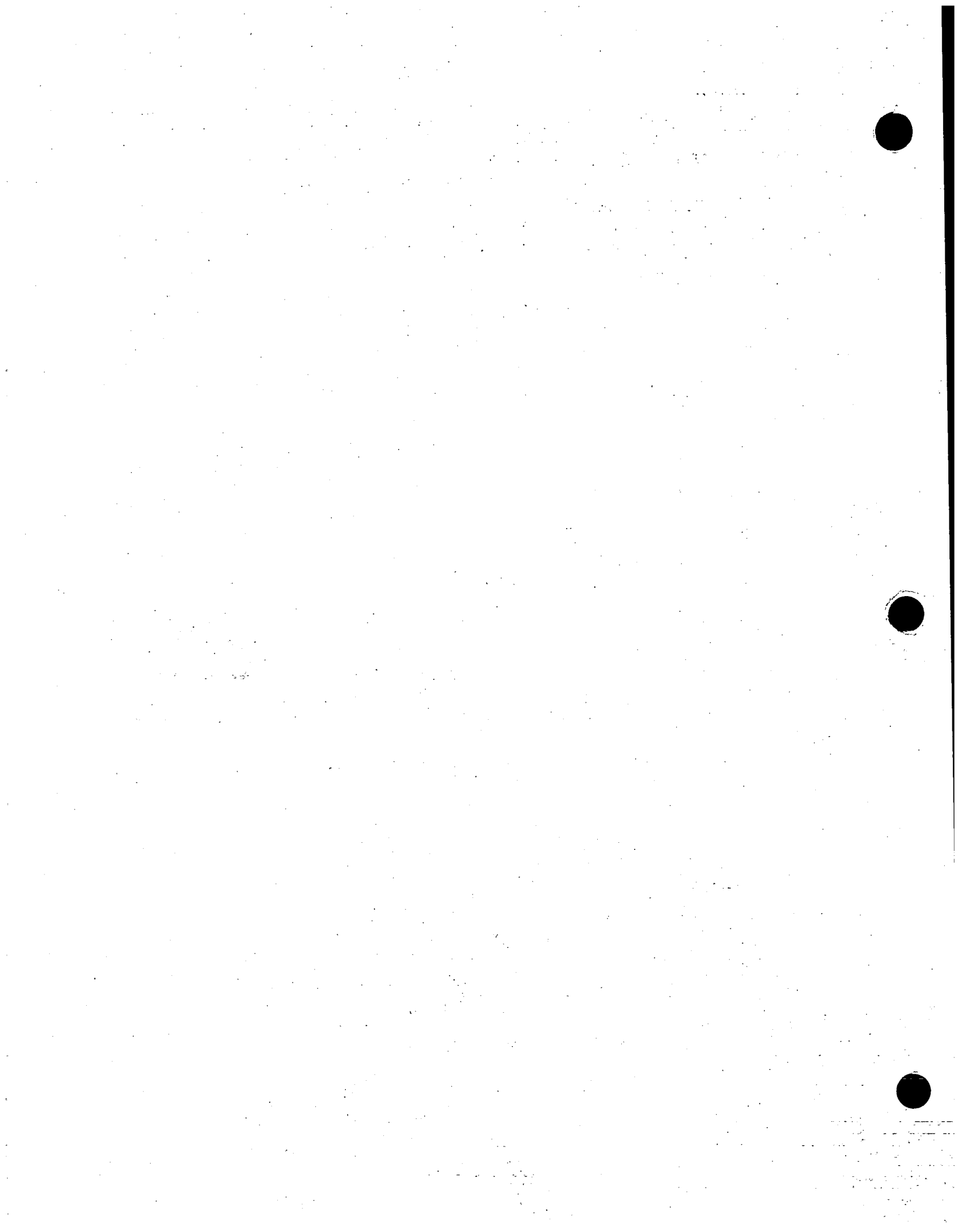
IF A FINAL ORDER SHOULD BE ENTERED AGAINST YOU AFTER THE HEARING, WHETHER OR NOT YOU ATTENDED, YOU MAY BE PROHIBITED FROM POSSESSING, TRANSPORTING, OR ACCEPTING A FIREARM UNDER THE 1994 AMENDMENT TO THE GUN CONTROL ACT, 18 U.S.C. § 922(g)(8).

VIOLATION OF THIS ORDER MAY SUBJECT YOU TO THE FOLLOWING FEDERAL CHARGES AND PUNISHMENT:

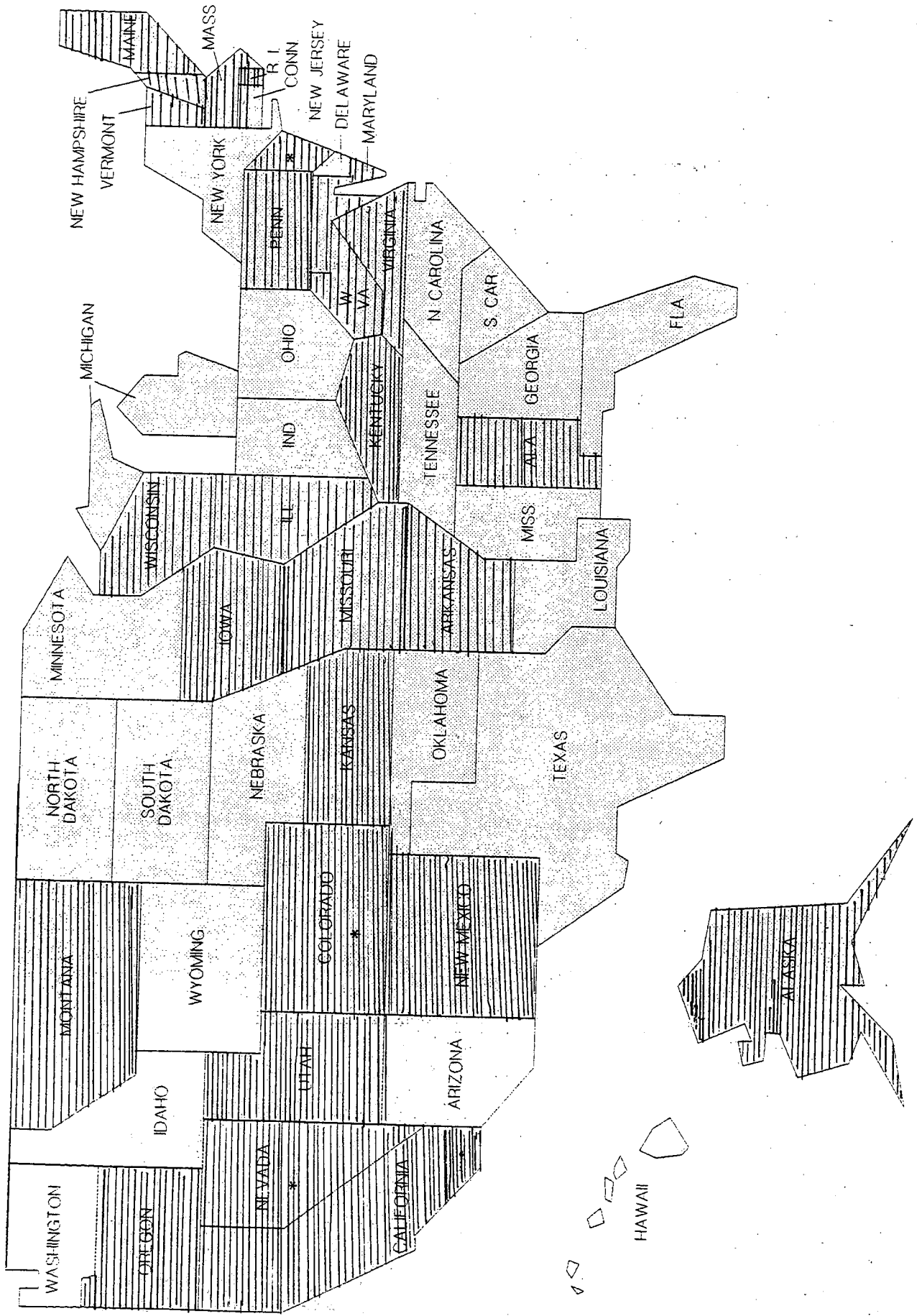
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IF YOU TRAVEL ACROSS STATE OR TRIBAL LAND LINES WITH THE INTENT TO VIOLATE THE FINAL PROTECTION ORDER AND SUBSEQUENTLY VIOLATE SUCH ORDER, YOU MAY BE CONVICTED OF COMMITTING A FEDERAL OFFENSE UNDER THE VAWA, 18 U.S.C. § 2262(a)(1). YOU MAY ALSO BE CONVICTED OF COMMITTING A FEDERAL OFFENSE IF YOU CAUSE THE PLAINTIFF TO CROSS STATE OR TRIBAL LAND LINES FOR THIS PURPOSE. 18 U.S.C. § 2262(a)(2).





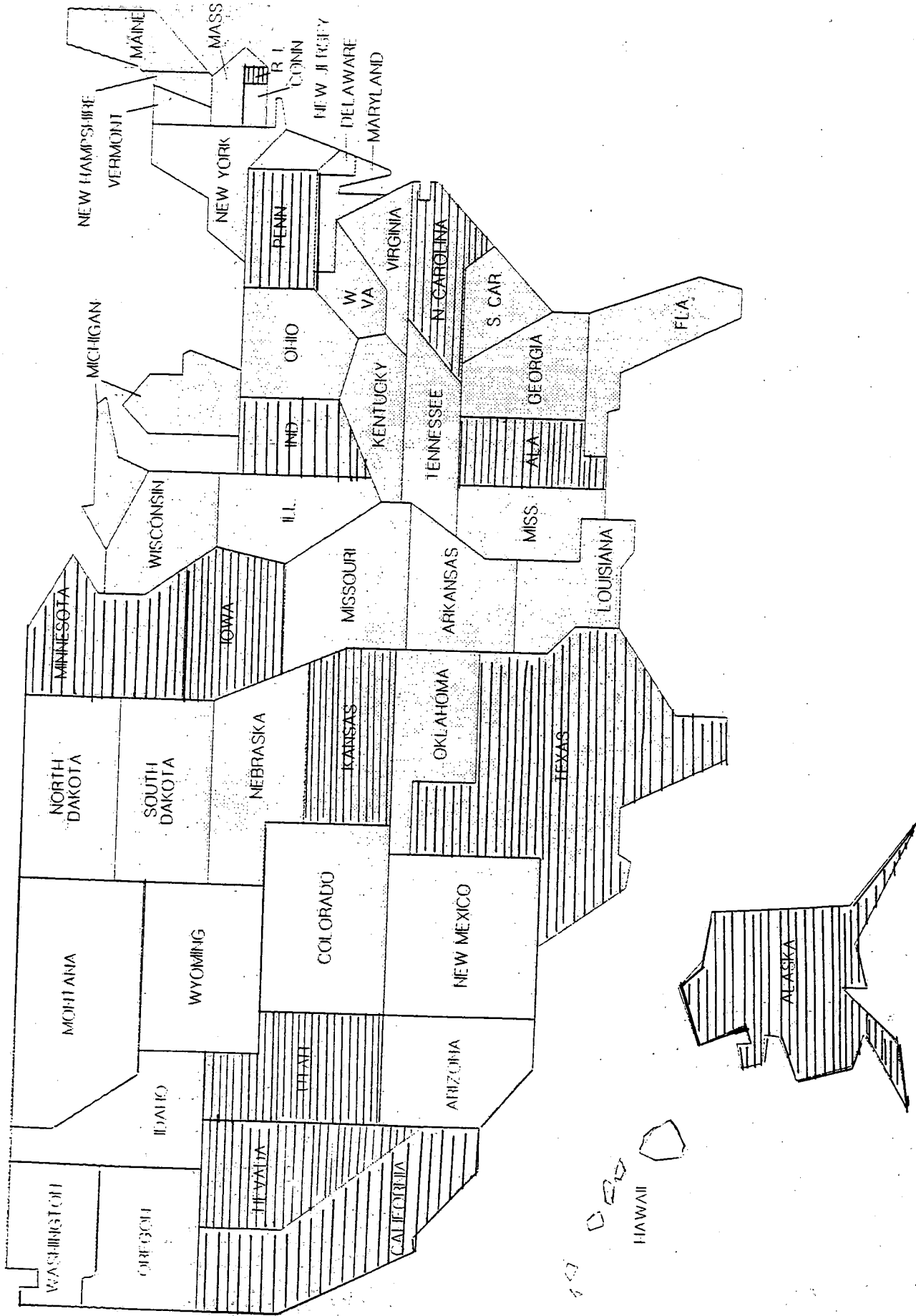
ENABLING LEGISLATION

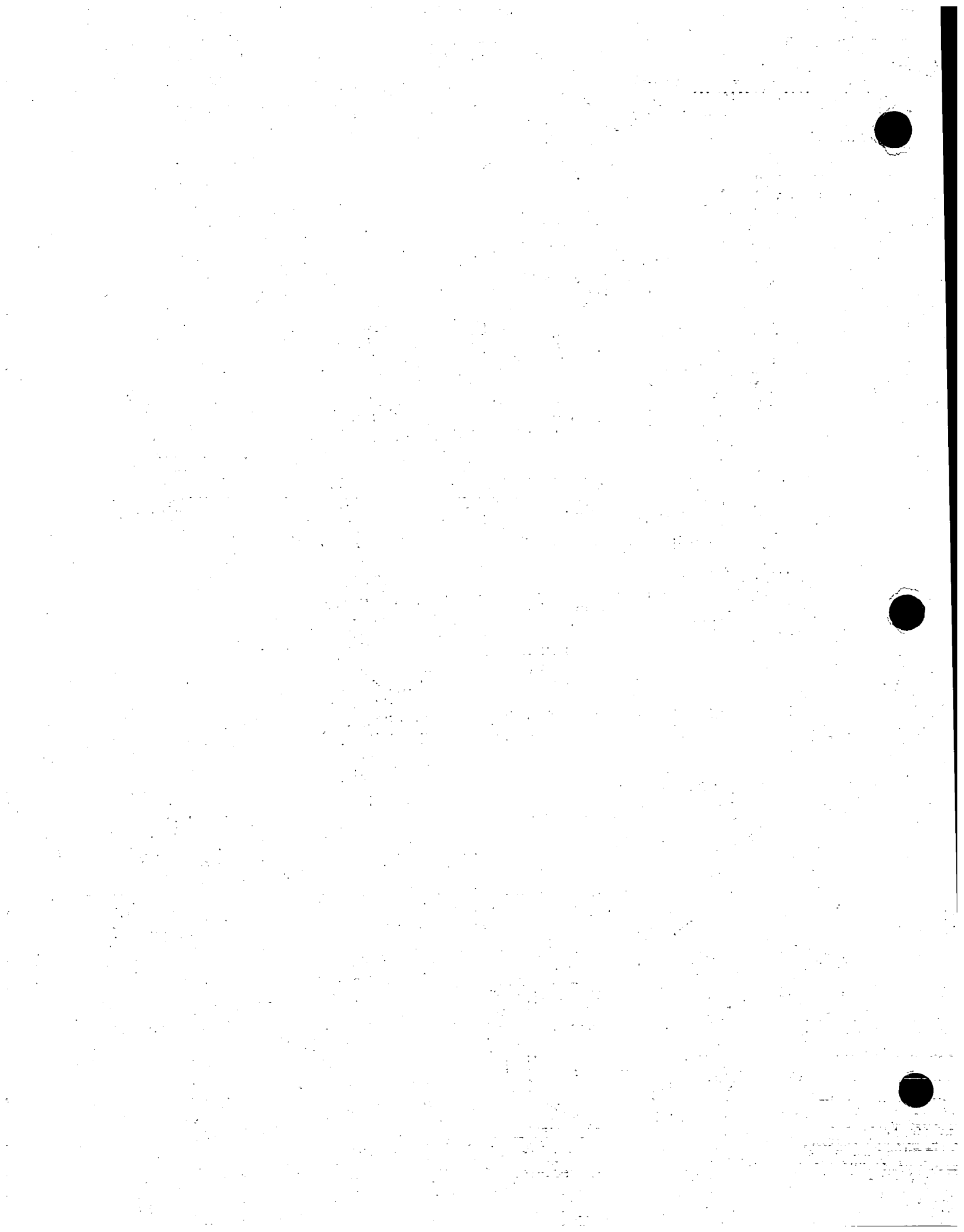


\*recognizes some



REGISTRIES IN PROGRESS





## 18 U.S.C. § 2261 Interstate Domestic Violence

### (a) Offenses –

(1) **Crossing a State line** – A person who travels across a State line or enters or leaves Indian country with the intent to injure, harass, or intimidate that person's spouse or intimate partner, and who, in the course of or as a result of such travel, intentionally commits a crime of violence and thereby causes bodily injury to such spouse or intimate partner, shall be punished as provided in subsection (b).

(2) **Causing the crossing of a State line** – A person who causes a spouse or intimate partner to cross a State line or to enter or leave Indian country by force, coercion, duress, or fraud and, in the course or as a result of that conduct, intentionally commits a crime of violence and thereby causes bodily injury to the person's spouse or intimate partner, shall be punished as provided in subsection (b).

(b) **Penalties** – A person who violates this section shall be fined under this title, imprisoned –

(1) for life or any term of years, if death of the offender's spouse or intimate partner results;

(2) for not more than 20 years if permanent disfigurement or life threatening bodily injury to the offender's spouse or intimate partner results;

(3) for not more than 10 years, if serious bodily injury to the offender's spouse or intimate partner results or if the offender uses a dangerous weapon during the offense;

(4) as provided for the applicable conduct under chapter 109A if the offense would constitute an offense under chapter 109A (without regard to whether the offense was committed in the special maritime and territorial jurisdiction of the United States or in a Federal prison) and

(5) for not more than 5 years, in any other case,  
or both fined and imprisoned.

## 18 U.S.C. § 2261A Interstate Stalking

Whoever travels across a State line or within the special maritime and territorial jurisdiction of the United States with the intent to injure or harass another person, and in the course of, or as a result of, such travel places that person in reasonable fear of the death of, or serious bodily injury (as defined in section 1365(g)(3) of this title) to, that person or a member of that person's immediate family (as defined in section 115 of this title) shall be punished as provided in section 2261 of this title.

OMNIBUS APPROPRIATIONS ACT OF 1996

PL 104-208 (HR 3610)

Signed - September 30, 1996

An Act making omnibus consolidated appropriations for the fiscal year ending September 30, 1997, and for other purposes.

GUN BAN FOR INDIVIDUALS CONVICTED OF A MISDEMEANOR CRIME OF DOMESTIC VIOLENCE

\* \* \* \* \*

18 U.S.C. § 921

(a) Definitions -

\* \* \* \* \*

(32) The term "intimate partner" means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is the parent of a child of the person, and an individual who cohabitates or has cohabitated with the person.

(33) (A) Except as provided in subparagraph (C), the term "misdemeanor crime of domestic violence" means an offense that-

(i) is a misdemeanor under Federal or State law; and

(ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

(B) (i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless-

(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

(aa) the case was tried by a jury, or

(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.



(ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

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18 U.S.C. § 922(d)

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person--

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) has been adjudicated as a mental defective or has been committed to any mental institution;

(5) who, being an alien, is illegally or unlawfully in the United States;

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship; ~~or~~

(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that--

(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(B) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate

partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) has been convicted in any court of a misdemeanor crime of domestic violence.

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18 U.S.C. § 922(g)

(g) It shall be unlawful for any person--

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien, is illegally or unlawfully in the United States;

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship; or

(8) who is subject to a court order that--

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; OR

(9) who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

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18 U.S.C. § 922(s)  
(Brady Statement)

(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only--

(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1)) of the transferee containing a photograph of the transferee and a description of the identification used;

(B) a statement that the transferee--

(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, and has not been convicted in any court of a misdemeanor crime of domestic violence;

(ii) is not a fugitive from justice;

(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

(v) is not an alien who is illegally or unlawfully in the United States;

(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

(C) the date the statement is made; and

(D) notice that the transferee intends to obtain a handgun from the transferor.

18 U.S.C. § 925

Exceptions: Relief from disabilities

(a) (1) The provisions of this chapter, except for sections 922 (c) (9) and 922 (g) (9) and provisions relating to firearms subject to the prohibitions of section 922 (p), shall not apply with respect to the transportation, shipment, receipt, possession, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

(a) Definitions -

\* \* \* \* \*

(32) The term "intimate partner" means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is the parent of a child of the person, and an individual who cohabitates or has cohabitated with the person.

(33) (A) Except as provided in subparagraph (C), the term "misdemeanor crime of domestic violence" means an offense that-

(i) is a misdemeanor under Federal or State law; and

(ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim.

(B) (i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless-

(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

(aa) the case was tried by a jury, or

(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise,

(C) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

18 U.S.C. § 922(g)

(g) It shall be unlawful for any person--

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;

(5) who, being an alien, is illegally or unlawfully in the United States;

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship; ~~or~~

(8) who is subject to a court order that--

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence.

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

18 U.S.C. § 922(s)  
(Brady Statement)

(3) The statement referred to in paragraph (1) (A) (i) (I) shall contain only--

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(C) the date the statement is made; and

(D) notice that the transferee intends to obtain a handgun from the transferor.

18 U.S.C. § 925

Exceptions: Relief from disabilities

(a) (1) The provisions of this chapter, except for sections 922(d)(5) and 922(g)(9) and provisions relating to firearms subject to the prohibitions of section 922(p), shall not apply with respect to the transportation, shipment, receipt, possession, or importation of any firearm or ammunition imported for, sold or shipped to, or issued for the use of, the United States or any department or agency thereof or any State or any department, agency, or political subdivision thereof.

## DATE/ACQUAINTANCE SEXUAL ASSAULT STAGES

- **Intrusion**  
This includes unwanted touching, statements, or advances that cause discomfort. One of the earliest warning signs is someone invading your personal space and not backing off when you say it's too close.
- **Desensitization**  
Situations in which continued intrusions (unwanted touching, offensive language, or fondling) lull the victim into an acceptance of the behavior. A person believes that another's behavior means nothing and they tell themselves "that's just the way he/she is."
- **Isolation**  
Situations in which the rapist contrives to get the victim alone, sometimes on a pretext.

## ACQUAINTANCE SEXUAL ASSAULT PRECAUTIONS

- Avoid being alone with someone who is drunk.
- Avoid being isolated with someone in a location where there is no ready access to help.
- Avoid places where there is a large emphasis for one to "score."
- Avoid being with someone who ignores you.
- Avoid being with someone who exhibits antisocial behavior, such as driving in a manner that intimidates other drivers. Those who behave antisocially in non-sexual situations are more likely than others to force sex.

## SUPPORT NUMBERS

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## Training for Rape and Sexual Assault Awareness and Prevention Program

### RAPE AND SEXUAL ASSAULT STATISTICS

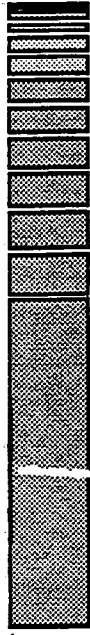
- Experts estimate that sexual assault is committed by someone the victim knows in a vast majority of cases.
- Although it is true that women are sexually assaulted more than any other group, no one is immune. Men suffer 10% of the sexual assaults treated.

### IF YOU ARE RAPED OR SEXUALLY ASSAULTED

- Go to a safe place where a phone is available.
- Contact appropriate law enforcement authorities.
- Preserve physical evidence by not washing or changing clothes.
- Seek medical attention.
- Request a support person.

### IF SOMEONE YOU KNOW WAS SEXUALLY ASSAULTED

- Do what you can--recognize your own limitations.
- Listen and sympathize.
- Don't ask what caused it.
- Support the decision to report the crime.
- Encourage the victim to speak to a counselor.



## Handout

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The Navy Sexual Assault Victim Intervention (SAVI) Program  
Bureau of Naval Personnel

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**Myth 1:**

*The rapist is usually a stranger.*

**FACT:**

A vast majority of rapists know their victims.

**Myth 2:**

*A large percentage of reports of sexual assault are false.*

**FACT:**

Statistics show that less than 5% of alleged rapes are unfounded. This is the same proportion as for all other crimes.

**Myth 3:**

*Men do not have to be concerned about sexual assault because it affects only women.*

**FACT:**

Men suffer 10% of the sexual assaults treated. In addition, men have wives, friends, mothers, and daughters who may someday need help in coping with the aftereffects of sexual assault.

**Myth 4:**

*Rape can't happen to me.*

**FACT:**

Rape is the fastest growing reported crime in America. One rape occurs every six minutes.

**Myth 5:**

*Rape happens only to the young and attractive.*

**FACT:**

Everyone is a potential victim.

**Myth 6:**

*Rape happens only if you ask for it. Only those who are provocative are the victims of this crime.*

**FACT:**

People who are not provocative are raped. In addition, to be provocative is not to say that you want to or should be raped.

**Myth 7:**

*Rape is not a big deal; it is only sex.*

**FACT:**

Rape is a big deal. It is a crime using sex to express power, control, and/or anger. Sex is between two consenting partners; rape is an act of aggression using sex as a weapon. To be raped or sexually assaulted is to be violated and stripped of control and self-determination.

**Myth 8:**

*No one person alone can rape another person.*

**FACT:**

One person alone can rape another person. The assailant may use physical violence, threats, or a weapon.

**Myth 9:**

*Most rapes are interracial. (Assailants and victims are of different races.)*

**FACT:**

About 90% of all rapes are intra-racial. (Most victims are raped by assailants of the same race.)

**Myth 10:**

*Most rapes are spontaneous; a rapist sees a victim and has to have him/her.*

**FACT:**

Most non-acquaintance rapes are planned. An assailant may watch a potential victim for a while and try to learn the victim's daily routine. Many assailants test potential victim's reactions to hostile sexual remarks to see if they can be intimidated.

Some acquaintance rapes are planned, but factors leading to date/acquaintance rape (e.g., alcohol, drug use, physical arousal, etc.) can change the atmosphere from a friendly encounter/date to sexual assault or rape.

**Myth 11:**

*Rapists are usually sexual deviants.*

**FACT:**

Most rapists exhibit no obvious sign of being sexually deviant.

**Myth 12:**

*Rapists rape because they "need" sex.*

**FACT:**

Most rapes do not occur out of the desire for a sexual partner. 75% of those who rape are either married or have regular sexual partners.

**Myth 13:**

*You are a rape victim only if you are hysterical and bruised.*

**FACT:**

The victim, male or female, may appear calm and collected, but may be suffering from rape trauma syndrome (RTS). Victims of date rape or acquaintance rape may not be bruised, cut, or beaten.

**Myth 14:**

*A person who has been raped is in some way to blame and needs to justify his or her behavior; just telling someone NO is not in itself enough for charges to be brought against the rapist.*

**FACT:**

Rape is an act of violence, and under NO circumstances should this act be condoned because of a victim's prior behavior.

This myth has caused much controversy, especially in the case of date/acquaintance rape. Remember, if the victim says NO and the assailant continues to pursue sex to its conclusion, the assailant is a rapist. The assailant does not have to use a gun or even beat the victim; it is still rape.

**FINAL FACT:**

Alcohol and drug use on the part of the assailant and/or the victim is one of the most important factors that contribute to date/acquaintance rape.

SEXUAL ASSAULT VICTIM  
INTERVENTION (SAVI) PROGRAM



VICTIM ADVOCATE POCKET GUIDE

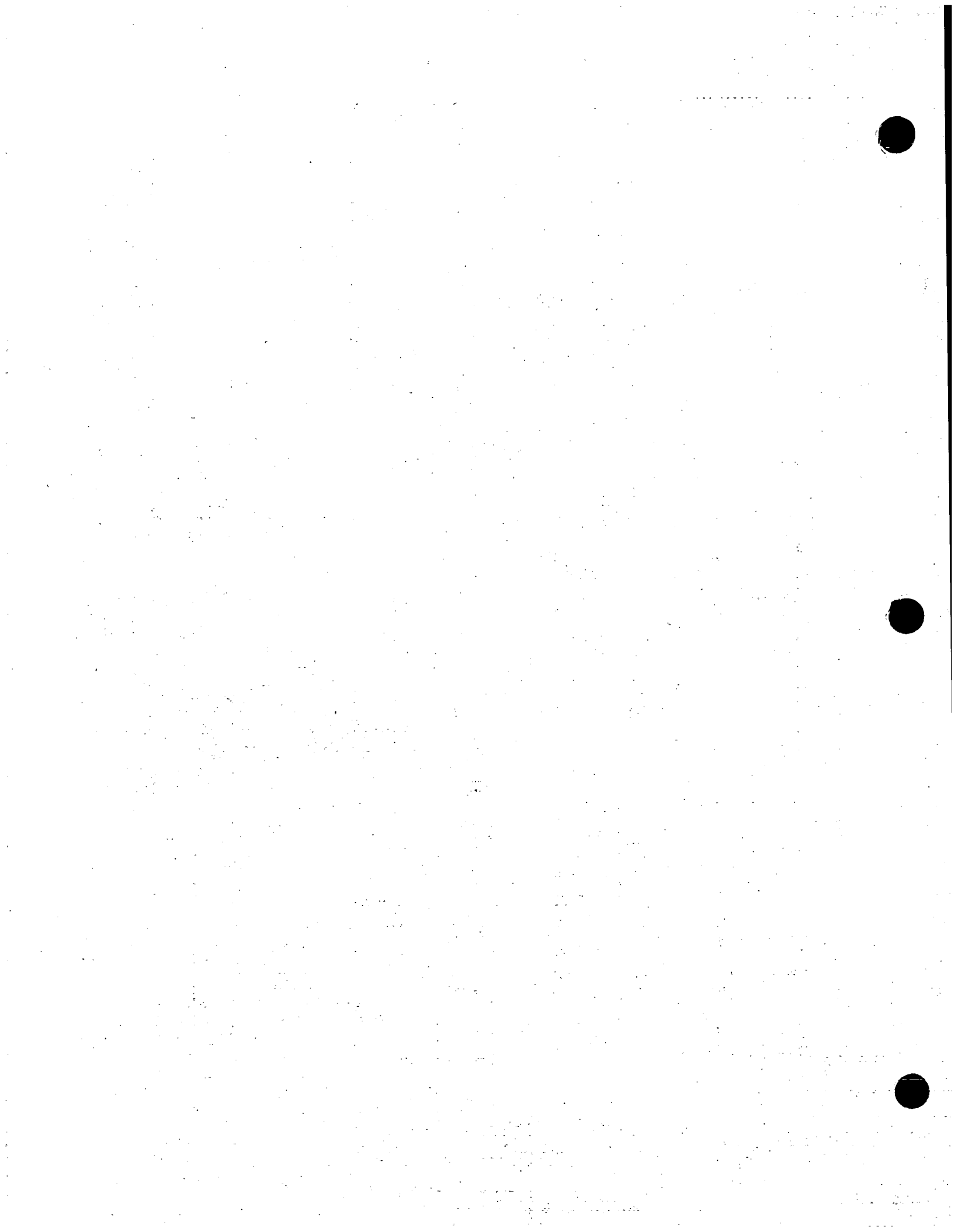


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**Introduction**

In your role as an Advocate, you will be providing quality support and assurance to rape/sexual assault victims and those associated with the victim. Additionally, you may serve as a companion during medical, legal, and/or court proceedings.

The victim will be turning to you for a great deal of support during a critical time of need. Being an Advocate is a very important responsibility. To successfully meet this responsibility, you will need to possess a basic knowledge of the procedures which may take place when a victim interacts with the legal and medical system. Additionally, you will need to understand the fundamental elements of advocacy as well as some basic terminology associated with rape/sexual assault.

This pocket guide provides you with a reference which you can use to find information quickly to help in your efforts to support a victim of rape/sexual assault. Because this guide is a quick reference, the information is presented in a concise manner, highlighting the most important information on advocacy techniques and legal/medical procedures. If you have a need for more detailed information on a particular topic associated with rape/sexual assault and advocacy, consult your Student Guide (which you received during your Advocate Training).

**How to be an Advocate**

Your job is to be a companion to the victim. Remember, you are **not** a counselor.

The following is a list of techniques you can use in order to be a good companion and to support the victim. This list is not all inclusive, and anything you do to promote the well-being of the victim is positive.



Supporting the Victim

HOW TO SUPPORT THE VICTIM

SUMMARY

**Explain to the victim who you are and always ask him/her if he/she wants you to stay (e.g., at the hospital).**

**Carry "necessities," as appropriate, whenever you are with the victim. These include--**

- change of clothing--old sweat pants, shirt, etc. (since the victim's clothing will probably be collected as evidence)
- snacks
- a liquid to drink (only give to victim if he/she is not having, or has already had, an oral swab)
- coins for the phones/vending machines
- literature on rape/sexual assault (e.g., pamphlets, information sheets)
- books/magazines
- money for cab fare for yourself or the victim (to be reimbursed)
- small pad of paper
- pen/pencil

**Be prepared to be a "runner" to get "this or that" (e.g., the victim leaves a belonging in the waiting room).**

continued...

HOW TO SUPPORT THE VICTIM

SUMMARY

**Talk with the victim about how he/she is doing.** Always allow the victim to talk about what he/she is feeling and never force disclosure.

**Provide information about what is going to happen next** (e.g., the forensic exam, a cross examination by the defense attorney). Be careful not to give misinformation-- only clarify when you are sure of something.

**See if there is anything he/she needs immediately.** However, never give the victim food or drink without checking with the medical staff (in case an oral swab is necessary).

**Be available to assist the victim with his/her interaction with medical or legal personnel, if necessary.** Always know the wishes of the victim before interacting. Also, think about the consequences of your interaction. If you need guidance, call the SAVI Advocate Coordinator.

**Always offer your services for the future.** Give a phone number (not your home number, but a number used by the Advocate program).

**Make sure the victim has a safe way of getting home** (call a cab if necessary) and alternative housing (if necessary).

**Call family members, if the victim wishes.**

continued...

HOW TO SUPPORT THE VICTIM

SUMMARY

**Be the extra memory and/or extra pair of hands for the victim (he/she may be operating in a "haze" and may not remember what he/she has been told).**

**Ask the victim if he/she has any special needs with which you could help.**

**Meeting the Victim**

When you meet the victim, he/she may exhibit a range of reactions (e.g., shock, frenzy, disorientation, calm). In these circumstances, it may be difficult to clarify the victim's feelings, problems, and/or wants. You may feel a natural desire to solve the victim's problems yourself or to rescue the victim. Resist that temptation. Instead, help the victim--

- identify his/her concerns
- identify options
- discuss steps to help him/her help himself/herself

You can do this by using these techniques--

- listening
- offering reassurance and warmth
- being calm
- being supportive
- being nonjudgmental
- caring

**Advocacy Techniques**

When working with the victim, use these techniques to help the victim manage the aftermath of the trauma:

- **Establish a rapport with the victim.**
- **Explore resources and identify alternatives.**
- **Provide safety and security.**
- **Allow the victim to vent.**
- **Provide information and prepare the victim for what may come next.**

**Using Effective Words, Phrases, and Responses**

Especially during a time of crisis, a person needs to hear just the "right" words, phrases, or responses. You do not know what is going through the mind of the victim, and if you say something (in an attempt to be helpful) in just the "wrong" way, it may be misunderstood. It is up to you to be sensitive in your conversations with the victim or with others when talking about the victim. Remember, there are no "pat" answers. To improve communications with the victim...

Do NOT use phrases such as:

- X "You're lucky that..."
- X "It'll take some time, but you'll get over it."
- X "I can imagine how you feel."
- X "Don't worry, it is going to be all right."

X "Try to be strong for your children, spouse, etc."

X "Calm down and try to relax".

DO use phrases such as:

✓ "You are safe now (if true)."

✓ "I'm glad you are talking with me now."

✓ "I am sorry it happened."

✓ "It wasn't your fault."

✓ "Your reaction is not an uncommon response."

✓ "It must have been really upsetting to see [hear, feel, smell, touch] that."

✓ "I can't imagine how you must feel."

✓ "You are not going crazy."

✓ "Things may never be the same, but they can get better."

Some additional helpful hints include--

- Never call the victim the "Client" or "Victim" or "Survivor" when talking to or about him/her. Rather, use the victim's preferred name.
- Never say "alleged" when referring to a victim of rape/sexual assault. Your role as Advocate is one of support, not judgment. Always assume that the victim is what he/she says he/she is--a victim of crime.

*Partially adapted from The Road to Victim Justice: Mapping Strategies for Service (A Series of Regional Training Conferences). National Victim Center. Arlington, Virginia, 1993.*

### **Blocks to Effective Listening**

As an Advocate, the victim is going to continually rely on you for an attentive "ear." However, we are not always good listeners. We all have bad listening habits that can get in the way of being a good listener. Bad listening habits should be discovered and unlearned. Once you have identified and corrected bad listening habits, you can be a more effective Advocate. The table below identifies some blocks to good listening.

BLOCKS TO EFFECTIVE LISTENING
SUMMARY
Judging what is being said
Jumping to conclusions
Assuming everyone thinks the way you do

**BLOCKS TO EFFECTIVE LISTENING**

**SUMMARY**

- Being closed-minded
- Being infatuated with your own words
- Engaging in wishful thinking
- Having a short attention span
- Getting caught up in semantics
- Making the appearing of listening but really not

*Adapted from the Pennsylvania Coalition Against Rape Volunteer Training Manual, May 1987.*

**Effective Communication  
Techniques**

Listening is not a passive process, but rather an active process--a skill which requires practice to increase effectiveness.

Listening is more than just hearing the words or watching the body language of the victim. Listening involves understanding what is being communicated by using different skills. The following table lists some effective communication skills.

<b>EFFECTIVE COMMUNICATION SKILLS</b>	
<b>Attending</b>	<p>Use eye contact which looks natural and displays warmth and interest to the victim.</p> <p>Use posture which appears relaxed and leans toward the victim when listening.</p>
<b>Paraphrasing</b>	<p>Repeat the victim's message using similar but fewer words.</p> <p>Do not add new words or ideas to the victim's message (ask yourself "What is the person's thought, feeling, and message to me?").</p>
<b>Clarifying</b>	<p>Ask the victim for clarification when the message is unclear.</p> <p>Avoid guessing or interpreting what the message is and always acknowledge any confusion or misunderstanding.</p>
<b>Perception Checking</b>	<p>Ask the victim for feedback on your understanding of what is being communicated.</p>

**Cultural Considerations**

Victims will vary not only in ethnicity and culture, but also in religion, socioeconomic status, sexual orientation, gender, age, mental development, and physical abilities. All rape/sexual assault victims suffer and experience universal reactions (e.g., fear, humiliation, blame), yet some distinctions among groups is necessary. The needs of the victim may vary due to his/her membership in a particular population. Therefore, you must be in tune with these needs in order



## ***Cultural Considerations***

to be an effective companion during the healing process. You should be proactive in your approach with the diverse victim. For example:

- Never allow cultural or racial patterns, whether real or stereotypical, to control your assumptions about a victim.
- Do not exaggerate differences between you and the victim (e.g., language barriers). Instead, resolve these differences as part of your commitment to the helping relationship.
- Address any incorrect assumptions (early in the helping relationship) that either you have about the victim or that he/she has about you.
- Do not be afraid to say "I don't know" when speaking to a victim about his/her culture. Do not pretend to know something about a person's culture when you really do not.
- Cultural identification is important and should be discussed with the victim (e.g., "How would you like to be referred to culturally--Asian, Asian-American, Chinese, Japanese, etc.?).
- Do not try to impress a victim with your knowledge of his/her culture. Be genuine.
- Do not expect that all victims who belong to a particular cultural group will talk alike or have stereotypical speech.
- Do not correct or parrot the victim's speech.
- Do not speak louder when speaking to someone whose primary language is not your primary language.
- Develop a network of colleagues in the victim assistance field who represent various ethnic or cultural backgrounds.

- Be comfortable in referring the victim to another Advocate, if necessary, who can best meet the needs of the victim.

*Partially adapted from the D.C. Rape Crisis Center Training Manual and revised by STAR MOUNTAIN, Inc.*

**Remember, race, religion, or socioeconomic status is not the central issue in the victimization of the victim. Remind the victim of the real affliction of rape/sexual assault--the violence, injury, and humiliation that one human imposes upon another.**

#### **Explaining Medical Procedures to the Victim**

The medical examination phase is critical to both the well-being of the victim and to the development of evidence to apprehend and to prosecute the perpetrator. Unfortunately, the medical/forensic examination can be an uncomfortable physical and emotional experience and the potential for feeling revictimized during this stage is high.

#### **Medical Terminology**

Refer to glossary of legal terms located in the back of this pocket guide.

#### **Victim Consent to Medical Treatment**

As with all stages of the medical/legal process, the victim decides to what extent he/she will accept assistance and whether he/she will cooperate in the gathering of evidence.

#### **The Medical/Forensic Examination**

The medical/forensic examination is designed for medical treatment and for evidence collection.

A medical examination is conducted to--

- check for external/internal injuries
- check (as preliminary) for existing sexually transmitted diseases (STDs)
- determine (as preliminary) the risk of pregnancy and to respond to pregnancy treatment if necessary and desired

- provide psycho-social support and crisis intervention to reduce the victim's psychological trauma, to reassure his/her needs, and to provide him/her with appropriate referrals

A forensic examination is conducted to--

- obtain forensic evidence of sexual contact, use of force, and the identity of the perpetrator
- preserve possibly valuable evidence for law enforcement use
- document sexual contact

**STEPS IN THE TYPICAL MEDICAL/FORENSIC EXAMINATION**

**SUMMARY**

- Intake information (e.g., name, address.)
- Victim consent to the examination(s)
- Treatment for immediate injuries
- Medical history (e.g., date and time of collection, contraceptive/menstruation information)

continued...

STEPS IN THE TYPICAL MEDICAL/FORENSIC EXAMINATION
SUMMARY
<ul style="list-style-type: none"><li>• Collection, documentation, and security of forensic evidence</li><li>• Postexamination information (e.g., possible follow-up services, counseling)</li><li>• Follow-up treatment</li></ul>

**Intake Information**

When a patient arrives at the Emergency Room, a charge nurse or a receptionist asks for general information from the victim prior to treatment (e.g., name, address, next of kin.) Normally, specific questions concerning the rape/sexual assault are not asked. The purpose of the intake processing is to focus on general personal information.

**Gaining Victim Consent**

As standard procedure, if a patient is not severely injured or incoherent, a hospital will try to obtain consent from the victim before any medical treatment is initiated. The victim decides to what extent he/she will accept assistance and whether he/she will cooperate in the forensic gathering of evidence.

The role of the Advocate is significant at this point. The Advocate should be prepared to explain why questions are being asked and why certain procedures are being done.

**Treatment For Immediate Injuries**

While preserving the integrity of evidence is important, the physical well-being of the victim is more important. Injuries can put the victim's health at risk and should be treated without delay.

**Medical History**

The medical history step of the medical/forensic examination is designed to develop a non-judgmental assessment of the patient's past and present medical condition. The history allows the physician completing the medical/forensic examination to see the complete condition of the person before deciding on specific examination protocols (e.g., if the victim is pregnant, the forensic examination would be conducted differently). The medical history also provides information on the assault, as well as the victim, that is needed by law enforcement agencies.

The medical history is normally taken by a nurse or physician prior to the examination.  
Questions asked concern--

- past medical problems
- vital signs (e.g., blood pressure)
- history of life threatening illnesses or allergic reactions
- date and time of the assault
- sex and number of perpetrators
- activities done after the assault (e.g., bathing, urinating)
- type of assault and penetration
- weapons used
- type of physical violence or threats of violence during the assault/rape
- menstrual/contraceptive history
- determination if currently pregnant

- gynecological history
- date and time of last voluntary sexual intercourse
- history of venereal diseases
- current medications
- tetanus inoculation status

The medical history step of the process is also used to obtain permission for the actual medical/forensic examination. The victim is informed of his/her right to refuse the examination.

**The Physical Evidence Recovery Kit (PERK)**

Evidence supporting a charge of sexual assault is largely circumstantial, must be obtained with extreme care, and should be fully documented. To ensure this, a Physical Evidence Recovery Kit (PERK), or Sexual Assault Determination Kit, is used to collect forensic evidence.

**The Forensic Examination**

The Kit may be on hand at the hospital or may be provided by the criminal investigator.

The medical examination procedure generally is conducted the same at both Navy and civilian medical treatment facilities. The physician is assisted by a nurse or a standby who is the same sex as the victim. You, the Advocate, may also accompany the victim to offer a sense of security and compassion. **The criminal investigator is not present during the examination.**

THE TYPICAL MEDICAL/FORENSIC EXAMINATION PROCEDURE	
SUMMARY	
•	collecting oral swab samples
•	documenting and/or photographing any physical damage (e.g., lacerations, contusions, swelling) on the victim
•	collecting saliva samples
•	collecting clothing, including underwear, hosiery, pants, shirt, and shoes
•	combing and collecting hair from head and pubic region (to collect loose hairs and fibers)
•	collecting swabs
-	collecting vaginal smear samples
-	collecting anal smear samples

continued...

THE TYPICAL MEDICAL/FORENSIC EXAMINATION PROCEDURE

SUMMARY

- collecting bite mark samples (collecting saliva from the bite mark area)
- collecting blood samples (whole blood and dried blood)
- collecting fingernail scrapings
- visual (speculum) and digital examination of the vaginal and rectal (if required) areas

**Follow-up Treatment**

Make sure that the victim understands that he/she needs to undergo follow-up testing for the possibility of pregnancy, sexually transmitted diseases, urinary tract, and other infections, and other physical problems that may have developed between visits. Follow-up treatment is usually done four to six weeks after the first hospital visit, but may not occur at the same medical facility or by the same medical provider. Often a victim will not have a follow-up treatment because he/she does not see any need. You must emphasize its importance.

**Explaining Police Procedures to the Victim**

It is important to understand police proceedings because you may be required to--

- explain what the victim may encounter when dealing with various agencies, systems, and personnel



- identify potential areas of the police proceedings where a victim may feel revictimized
- explain legal (police) terminology
- explain his/her rights as a victim

Refer to the glossary of terms located in the back of this pocket guide.

**Police Terminology**

**Victims' Bill of Rights**

The Victims' Rights and Restitution Act of 1990 legislated that victims, including those victims of rape/sexual assault, are to be given fair and sensitive handling by all personnel at all levels of victim assistance. The following table summarizes the rights of the crime victim, according to law.

<b>RIGHTS OF A CRIME VICTIM SUMMARY</b>
<ul style="list-style-type: none"><li>• To be treated with fairness and with respect for his/her dignity and privacy</li><li>• To be reasonably protected from the accused offender</li><li>• To be notified of court proceedings</li></ul>

continued...

**RIGHTS OF A CRIME VICTIM**

**SUMMARY**

- To be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial
- To seek restitution
- To receive information about the conviction, sentencing, imprisonment, and release of the offender
- To confer with an attorney for the Government in the case

The victim also has the "unwritten" right to not report or prosecute a rape/sexual assault. The victim decides how to proceed with bringing closure to an attack. However, if a victim does decide to report the crime, he/she may have little control over its investigation. This is especially true in the Navy where the decision to prosecute or to not prosecute is made by the perpetrator's Commanding Officer (if the perpetrator is active duty), not the victim. If the victim is trying to make a decision about whether or not to prosecute the case, you might support him/her by pointing out the pros and cons to each decision. Some include--

- prosecuting could protect others from a similar incident
- medical/legal evidence may be lost if the victim initially decides not to prosecute and later changes his/her mind

- not prosecuting protects the victim from the trauma of having to relive the event in court

Remember to never make a decision for the victim, instead present options. Once the victim has made a decision regarding prosecution, accept it, stand behind it, and never criticize.

The law enforcement agency is contacted when a victim is still at the crime scene. The table below describes the responsibilities of the law enforcement agency representative when he/she responds to a call.

**Immediate Police Action**

<b>LAW ENFORCEMENT RESPONSIBILITIES AT THE CRIME SCENE</b>	
<b>SUMMARY</b>	
•	To ensure the safety of the victim
•	To provide emergency first aid to the victim or summon medical assistance as necessary
•	To ascertain what crime was committed
•	To obtain general details of what transpired
•	To get a general description of the assailant(s) and the names of witnesses
•	To secure the crime scene to preserve evidence

continued...

**LAW ENFORCEMENT RESPONSIBILITIES AT THE CRIME SCENE**

**SUMMARY**

- To notify criminal investigators of the incident
- To explain to the victim that the medical examination is necessary for both health and evidence collection reasons
- To give a general description of what will take place at the hospital and to advise the victim--
  - to take a change of clothes because what he/she is wearing will probably be taken as evidence
  - to not clean up (e.g., shower, douche, comb hair, put on makeup)
  - to not touch anything or take anything from the crime scene
  - to have a friend/relative, or a rape Advocate/Counselor (if available), accompany them to the hospital

continued...

**LAW ENFORCEMENT RESPONSIBILITIES AT THE CRIME SCENE**

**SUMMARY**

- To arrange for the victim to be transported to the hospital
- To inform the victim of his/her rights concerning the options of medical assistance and officially reporting the crime

**Police Investigative Procedures**

Police investigation continues, even after the victim has left the crime location. Investigators usually use the time when the victim is not present (the victim is usually at the hospital) to collect evidence. The victim needs to be warned, especially if the rape/sexual assault occurred in the home, that items may be removed for evidence when he/she returns home and/or items which remain in the home may be misplaced or out of order.

**The Police Interview**

In an interview, you need to expect that--

- the interview will be conducted in a private area
- the police will explain that the interview is designed to obtain the facts
- the questions asked will be about what happened before, during, and after the attack
- the questions/responses may be graphic
- the victim may react strongly

You should reinforce to the victim the fact that the police make every attempt to ensure that the victim understands that the police are on his/her side and only want to get all the information so they can identify, apprehend, and convict the assailant.

**Military Apprehension and Charge Procedures**

During the military apprehension and charge process, the following occur--

- the CO asks a representative of his/her legal office to prefer charges, if there is sufficient supporting evidence
- the CO of the perpetrator determines whether the suspect should be detained
- NCIS can apprehend a suspect and deliver him/her to his/her CO

Note: In the military, there is no arrest as it exists in the civilian sector.

**Explaining Judicial Procedures to the Victim**

When the victim is involved with the legal process, your role as an Advocate becomes even more important. You may need to explain to the victim, in basic terms, the judicial process as it unfolds. However, realize that, as an Advocate, you are not expected to know the law word for word. If you find yourself unable to explain something to the victim, refer the victim to an appropriate agency/individual who can.

**Legal Terminology**

Refer to the glossary of terms located in the back of this pocket guide.

**The Civilian Judicial Process**

CIVILIAN JUDICIAL PROCESS	
SUMMARY	
•	Arraignment
•	Preliminary Hearing
•	Continuance(s) (if applicable)
•	Grand Jury Indictment
•	Plea Bargain
•	Trial Process
•	Trial Proceedings

**Arraignment**

After being identified and arrested, the accused attacker is arraigned. An arraignment is--

- a court hearing where a judge tells a defendant (accused) about the charges against him/her and his/her rights to trial
- when the judge sets bail and assigns a public defender to the case, if required
- when the judge sets a preliminary hearing date

**Preliminary Hearing**

A preliminary hearing is held after the arraignment. The preliminary hearing--

- determines if evidence is sufficient to proceed with trial
- is not a trial with a jury
- is conducted by a judge in District Court with the prosecutor, the defense attorney, and the police present

If the victim is asked to testify, he/she may be asked to give the following information--

- time the rape/sexual assault occurred
- place where the attack occurred
- means of attack and assault
- description of the defendant (at time of attack)
- description of anything said
- how long the attack took

**Continuance**

A continuance is a delay in legal proceedings (adjournment) to allow for the defense to prepare their case. Although states require that a preliminary hearing be held within a specified number of days, this rarely occurs. The preliminary hearing is rescheduled an average of three to four times because of continuances by the defense.

**Grand Jury Indictment**

A Grand Jury--

- is a group of sixteen to twenty-three citizens
- hears information regarding the alleged crime



- determines if there is enough evidence to bring the case to trial
- includes the prosecutor and the police

Grand Jury testimony is undisclosed, and the victim is normally not required to testify. However, the victim can be called upon to speak if the Grand Jury so desires.

If the Grand Jury finds the evidence adequate, they will issue an indictment, a written document which legally accuses a person of committing a crime.

A plea bargain is when the prosecutor agrees to reduce the criminal charge if the defendant pleads guilty. A plea bargain may occur for various reasons--

### **Plea Bargain**

- when a prosecution's case is weakened substantially enough for the prosecutor to feel that the evidence will not support a conviction for the original charges
- when a victim wishes to avoid testifying
- when the prosecutor strongly believes that the plea bargain outcome would be the same as the outcome that could be expected if the case went to trial

The prosecutor may ask the victim's opinion, in some states it is required, but the final decision is made by the prosecutors. If a plea bargain is made, the victim may not be required to testify.

### **Trial Process**

Once indicted and arraigned, the defendant and the victim face a trial. The defendant has the option and right to request a jury trial, which he/she normally takes. More delays will occur if the defense asks for continuances. The time from arrest to trial can exceed one year. The trial requires the victim to be prepared to tell strangers intimate and embarrassing details of the attack.

**Trial Proceedings**

The defense normally will ask--

- did you struggle?
- did you consent to have sex?
- what were you doing before the attack?
- what did you do after the attack?

The defense could also try to develop questions about the victim's character by--

- asking about the victim's emotional state at the time of the attack
- questioning the motive for reporting the rape/sexual assault (e.g., revenge?)
- questioning the accuracy of the victim's statement

**To discredit the character of the victim, the defense may manipulate the victim's testimony as much as possible to help create doubt in the minds of the jurors.**

The victim is normally the first to testify. It is not unusual for a victim to be disallowed to attend the entire trial and to be required to leave the courtroom after testifying.

**The Military Judicial Process**

THE MILITARY JUDICIAL PROCESS	
SUMMARY	
•	Commanding Officer's Decision to Search, Detain, and Prosecute
•	Article 32 Investigation
•	Pretrial Restraint
•	Convening the Court-Martial
•	Pretrial Agreement
•	Trial Procedures
•	Court-Martial Verdict Proceedings

**Role of the NCIS**

The goals of the NCIS and civilian police are the same--to obtain evidence. As a part of the evidence collection, both NCIS and the civilian police will question the victim. However, the role of the Naval Criminal Investigative Service (NCIS) varies from that of the civilian police role in one primary way. The Report of Investigation that is developed by the NCIS does not make recommendations for judicial action. Instead, a report describing all facts and listing a suspect (if identified) is submitted to the suspect's Commanding Officer.

**Role and Authority of the Commanding Officer**

The CO has powers substantially equivalent to those of civilian prosecutors and judges. Under the UCMJ, the perpetrator's CO has the power to search, to detain, and to prosecute personnel under his/her command. Under the UCMJ, the victim's CO, if not the same as the perpetrator's CO, is not involved in any part of the prosecution of the perpetrator.

Upon reviewing the Report of Investigation, and with advice from a Staff Judge Advocate or from a Naval Legal Service Office, the CO determines whether military court action is warranted.

**Article 32 Investigation**

The Article 32 Investigation serves the same purpose as the Preliminary Hearing and the Grand Jury in the civilian judicial process. The Convening Authority is a CO authorized to establish courts-martial, to refer cases to courts he/she has convened, and to take final action on the case. However, only a General Court-Martial authority can convene a General Court-Martial.

The Courts Martial Convening Authority assigns an impartial investigating officer to--

- make a thorough and impartial investigation into the truth of the charges
- make recommendations as to the disposition of the charges in the interest of justice

**Pretrial Restraint**

A suspect may be confined when his/her command has probable cause to believe that an offense under the UCMJ has been committed, that the suspect committed it, and that the suspect is not likely to appear for trial or will engage in serious criminal misconduct.

Pretrial restraint includes:

- **Condition of liberty:** A direct order to refrain from specific acts.
- **Restrictions to limits:** Restricting the subject to the unit area or their quarters (arrest in quarters).
- **Pretrial restraint:** Confinement to the Brig until the trial concludes.

**Convening the Court-Martial**

A Court-Martial is composed of a military judge, a Trial Counsel (prosecutor), the Defense Council, and members (if elected by the accused), which is like a jury made up of officers.

The Convening Authority details qualified persons as members for courts-martial. The military judge and counsel are detailed in accordance with regulation. The members who hear the evidence are selected following questioning by both the trial counsel, and after the military judge has ruled on challenges posed, by either the Government or the Defense, to members.

**Pretrial Agreement**

After charges have been referred and the Court-Martial is formed, the defense can make a plea bargain. A plea bargain is the same in the military as in civilian law.

**Trial Procedures**

Trial procedures, as it pertains to the victim, are the same as those experienced in a civilian court. However, the Court-Martial process is less public than a civilian trial, and news media are not admitted.

**Court-Martial Verdict Proceedings**

Once a verdict is reached by a Court-Martial, it is reviewed by the Convening Authority.

The Convening Authority--

- has the power to approve, to disapprove, and to reduce the findings and sentence of the court
- cannot impose a greater sentence than that determined by the Court-Martial
- "takes action" on the sentence once he/she reviews the courts findings

The victim can make a verbal statement or submit a written statement to the convening authority expressing his/her sentencing desires. The Convening Authority considers the statement in his/her review. In military law, the only part of a sentence that becomes effective immediately is confinement--the convicted person is not "free to walk the streets." The remainder of the sentence imposed by a Court-Martial is not effective until the Convening Authority "takes action" on it.

## **Glossary of Terms\***

\*NOTE: While civilian legal definitions vary from jurisdiction to jurisdiction, military law definitions are standard throughout the Navy regardless of location.

**Accused:** See "Defendant."

**Acquittal:** The verdict of not guilty by judgment of a court or Court-Martial.

**Admissible Evidence:** Evidence or testimony which may be received by a trial court to aid the trier of fact (judge or jury) in deciding the merits of the charges.

**Affiant:** The person who makes and subscribes to a statement made under oath.

**Aggravated Assault:** Intentionally or knowingly causing serious bodily injury.

**AIDS:** Acquired Immune Deficiency Syndrome (AIDS), a disease transmitted by intimate sexual contact and by exposure to HIV contaminated blood.

**Alleged Attacker:** See "Suspect" or "Defendant."

**Anal Sex:** To put a penis into the rectum of another person.

**Appeal:** A review of the trial record by a higher court to see if any legal mistakes were made.

**Arraignment:** A hearing at which a judge tells the defendant about the charges against him/her and his/her rights to have a lawyer and a trial.

**Article 32:**

The Military's formal and impartial investigation to determine the accuracy of charges and to recommend a course of action regarding the case in the interest of justice and discipline.

**Assailant:**

The person identified as the attacker (perpetrator).

**Assault:**

The use of unlawful force or violence either as an overt act with the intent of inflicting bodily harm; or as an unlawful demonstration of violence, either by an intentional or by a culpably negligent act or omission, which creates in the mind of another a reasonable apprehension of receiving immediate bodily harm (UCMJ Article 128, paragraph 54).

**Assault with Intent to Commit Rape:**

An assault with intent to commit rape; the accused must have intended to complete the offense of rape and to overcome any resistance by force (UCMJ Article 134, paragraph 64).

**Assault with Intent to Commit Sodomy:**

An assault against a human being committed with the specific intent of completing the offense of sodomy (UCMJ Article 134, paragraph 64).

**Bail:**

An amount of money or property a suspect leaves with a court as promise that, if he/she is released, he/she will return for trial.

**Bench Trial:**

A trial in which the defendant does not want a jury and asks the judge to hear the case and determine his/her guilt.

**Chlamydia:**

A sexually transmitted disease (STD) which can be contracted while having sexual relations with someone already infected with the disease.

**Circumstantial Evidence:**

Indirect evidence that is not substantial enough for proof beyond a reasonable doubt but may be introduced to strengthen other evidence.

**Complainant:**

Person who initiates the complaint against his/her assailant.

- Complaint:** A formal charge or accusation.
- Composite:** A picture of the assailant from an artist's drawing or assembly of facial features.
- Continuance:** Postponement of legal proceedings to a later date.
- Convening Authority:** The commanding officer authorized by the UCMJ to convene (establish) courts-martial, to refer cases to courts he/she has convened, and to take final action on the case.
- Conviction:** To be found guilty by a court or jury.
- Crisis Center:** An organization that offers support services or crisis counseling to victims of crime and other traumatic events.
- Cross Examination:** Questions asked on the subject matter of the direct examination and matters affecting the credibility of the witness.
- Cunnilingus:** To put one's mouth on the female genitalia.
- Defendant:** A person who is charged with a crime.
- Defense Counsel:** The lawyer for the defendant.
- Dismiss:** To terminate a case without a complete trial.
- Disposition:** The outcome of a case.
- Docket:** The list of cases that need to be heard by the court and when they will be heard.
- Evidence:** The physical items or testimony which supports a person's statement of what happened.
- Eye Witness:** A person who saw a crime take place.



- Fellatio:** To put one's mouth on the male genitalia.
- Felony:** A more serious crime, punishable by death or imprisonment for more than one year.
- Genitalia:** The external sex organs.
- Gonorrhea:** A sexually transmitted disease (STD) which can be contracted while having sexual relations with someone already infected with the disease.
- Grand Jury:** A group of 16 to 23 citizens chosen to hear the information regarding the alleged crime and to determine if there is enough evidence to bring the case to trial.
- GUILTY:** The decision the judge or jury makes that the defendant did commit the crime beyond a reasonable doubt.
- Hearsay Evidence:** Evidence/information received indirectly rather than what was seen or heard, which is sometimes admissible in court.
- Hung Jury:** A jury whose members cannot agree that the defendant is guilty or not guilty.
- Incest:** Sexual intercourse between blood, adoptive, or steprelatives.
- Indecent Assault:** An assault with the intent to gratify the lust or sexual desires of the accused (UCMJ Article 134, paragraph 63).
- Indictment:** A written accusation submitted to a Grand Jury charging a person with a crime.
- Injunction:** A court order requested by one party prohibiting another from doing a particular act or activity.
- Installation Commander:** Generally synonymous with "local coordinator" as described in OPNAVINST 5400.24D. The term "installation commander" includes Commanding Officers and officers in charge of geographically isolated shore units or commands which are not tenant commands of an installation and do not have ready access to another installation's FSC, MTF, or

legal services. Commanding Officers of recruiting districts, reserve centers, communication centers, and ammunition depots may be classified as installation commanders if they are not serviced by a larger installation.

**Intercourse:** Physical sexual contact between individuals that involves the genitalia of at least one person (Webster's Dictionary).

**Jury:** A group of people from the community who listen to the trial and decide if the defendant is guilty or not guilty.

**Lie Detector Test:** See "Polygraph Exam."

**Lineup:** A group of five or six people who are viewed (in person or by pictures) by a victim or witness in an attempt to identify the person who committed a crime.

**Military Judges:** Staff Judge Advocates that preside over all open sessions of Courts-Martial to which they are detailed by the Trial Judiciary. Any Commander or higher can be a judge for courts-martial.

**Misdemeanor:** A crime less serious than a felony, punishable by lighter sentences or fines.

**Molest:** To fondle the private (sexual) parts of another person in order to achieve sexual gratification.

**Mug Shots:** The photograph of the face of a criminal or suspect.

**Objection:** A declaration that a matter before the court that is done or being admitted without consent of the opposing party.

**Oral Sex:** To put one's mouth on another person's genitalia. See "Fellatio" and "Cunnilingus."

**P.E.R.K.:** A Physical Evidence Recovery Kit (PERK) for medical personnel that includes the items and instructions necessary to collect and to preserve the physical evidence of the attack.

**Penis:** The male sex organ (genitalia).

**Perjury:** Deliberately testifying falsely while under oath.

- Plea Bargain:** An agreement made between the prosecutor and the defense attorney in which the defendant agrees to plead guilty to a crime (usually a lesser crime than the original charge).
- Polygraph Exam:** A test that uses a machine to measure changes in a person's heart rate, breathing rate, and blood pressure while questions are asked.
- Plea:** The reply of the defendant of guilty or not guilty or the charge filed against him.
- Preliminary Hearing:** A legal process at which the judge decides if there is enough evidence to send the defendant's charges to a grand jury or trial.
- Pretrial Restraint:** Limiting the freedom of the accused when there is reasonable belief that the person restrained has committed an offense triable by courts-martial.
- Probable Cause:** The ruling in a preliminary hearing that states there is reasonable ground for belief that the accused is guilty of the crime in question.
- Prosecutor:** (Also called Trial Counsel within the Navy). The lawyer (attorney) for the state who represents the interest of the government in court.
- Rape:** Sexual intercourse with force and without consent.
- Rebuttal:** Argument used to oppose what has already been said.
- Referral:** Within the military, the action of the Convening Authority in directing that a particular case be tried by a specific Court-Martial.
- Rules of Courts-Martial:** Rules that govern the procedures and punishments in all Courts-Martial (found in MCM).
- Semen:** Secreted by the penis, it is the thick, whitish fluid that contains the sperm.

- Sentence:** The punishment ordered by the judge (or court-martial) after the defendant has been convicted of a crime.
- Sequester:** Witnesses and juries are isolated to prevent the influence of the media or (in the case of witnesses) other testimony.
- Sexual Molestation:** To fondle the private (sexual) parts of another person in order to achieve sexual gratification.
- Sexual Assault:** See "Indecent Assault."
- Sexual Harassment:** A form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
- a. submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or
  - b. submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or
  - c. such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive environment.
- Sodomy:** A legal term used to describe oral or anal sex.
- Speedy Trial:** The defendant has a right in the military to be brought to trial within 120 days after referral of charges or within 90 days of beginning confinement. In the civilian community, the defendant has a right to be brought to trial within 120 days if in jail and 160 days if out on bond.
- Statute:** An act of legislation that becomes law.
- Subpoena:** A legally binding document which demands the appearance of a person in court on a certain day.
- Summons:** An official order to appear in court.

- Suspect:** A person who is believed to have committed a crime.
- Syphilis:** A sexually transmitted disease (STD) which can be contracted while having sexual relations with someone already infected with the disease.
- Testimony:** Statements made in court by a witness under oath.
- Transcript:** The written official record of the court proceedings.
- Uniform Code of Military Justice:** Act of Congress setting forth laws that govern the conduct of the Armed Forces of the United States.
- Vagina:** A female genital opening that leads to the uterus.
- Venereal Disease:** A sexually transmitted disease (STD) which can be contracted while having sexual relations with someone already infected with the disease.
- Venue:** Location of the trial.
- Verdict:** The opinion of a jury or judge on the guilt or the innocence of the defendant.
- Victim/Witness Assistance Program:** An organization sometimes operated in connection with the police or sheriff's department or the state attorney's office to assist persons who become victims or witnesses of crime. Trained staff and volunteers help victims or witnesses receive fair and courteous treatment while participating in the criminal justice system.
- Waiver:** An intentional and voluntary giving up of a right (e.g., to a jury trial or attorney).

*Glossary of Terms*

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**Warrant:** A written order issued by a judge authorizing a law enforcement officer to make an arrest or conduct a search.

**Witness:** A person who gives evidence before a court and who testifies under oath.

**Resources/Agencies  
Local Services  
(24-hour)**

**BASE SECURITY**

Phone Number: ( ) \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Other information: \_\_\_\_\_  
\_\_\_\_\_

**CIVILIAN LAW ENFORCEMENT**

Phone Number: ( ) \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Other information: \_\_\_\_\_  
\_\_\_\_\_

**DUTY CHAPLAIN**

Phone Number: ( ) \_\_\_\_\_  
Point of Contact: \_\_\_\_\_  
Address: \_\_\_\_\_  
Other information: \_\_\_\_\_

**MENTAL HEALTH (EMERGENCY SERVICE)**

Phone Number: ( ) \_\_\_\_\_  
Point of Contact: \_\_\_\_\_  
Address: \_\_\_\_\_  
Other information: \_\_\_\_\_



**MILITARY HOSPITAL**

Phone Number: ( ) \_\_\_\_\_  
Point of Contact: \_\_\_\_\_  
Address: \_\_\_\_\_  
Other information: \_\_\_\_\_

**CIVILIAN HOSPITAL**

Phone Number: ( ) \_\_\_\_\_  
Point of Contact: \_\_\_\_\_  
Address: \_\_\_\_\_  
Other information: \_\_\_\_\_

**RAPE CRISIS CENTER**

**Phone Number:** (    ) \_\_\_\_\_  
**Point of Contact:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
**Other information:** \_\_\_\_\_  
\_\_\_\_\_

**Resources/Agencies  
Local Services  
(not 24-hour)**

**FAMILY SERVICE CENTER**

Phone Number: (     ) \_\_\_\_\_  
Address: \_\_\_\_\_  
Other information: \_\_\_\_\_  
\_\_\_\_\_

**VICTIM-WITNESS PROGRAM (LOCAL)**

Phone Number: (     ) \_\_\_\_\_  
Point of Contact: \_\_\_\_\_  
Address: \_\_\_\_\_  
Other information: \_\_\_\_\_  
\_\_\_\_\_

**WOMEN'S CENTER**

Phone Number: ( ) \_\_\_\_\_  
Point of Contact: \_\_\_\_\_  
Address: \_\_\_\_\_  
Other information: \_\_\_\_\_

**JUDGE ADVOCATE GENERAL (JAG)**

Phone Number: ( ) \_\_\_\_\_  
Point of Contact: \_\_\_\_\_  
Address: \_\_\_\_\_  
Other information: \_\_\_\_\_

**NAVAL CRIMINAL INVESTIGATIVE SERVICE (NCIS)**

Phone Number: ( ) \_\_\_\_\_

Point of Contact: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Other information: \_\_\_\_\_

\_\_\_\_\_

## WHY THE RELIGIOUS COMMUNITY SHOULD ASSIST CRIME VICTIMS

### I. WHEN ONE BECOMES A CRIME VICTIM IT IS A MATTER OF THE SOUL

Thomas Moore, in his book *Care of the Soul*, says "A spiritual life of some kind is absolutely necessary for psychological 'health'; at the same time, excessive or ungrounded spirituality can also be dangerous." Moore speaks of the Catholic parish priest... "For hundreds of years the parish priest received into his charge the souls of those who lived within the boundaries of his church. This responsibility, as well as the work he did tending the needs of his people, was known as cura animarum, the cure of souls. Cure meant 'charge' as well as 'care'. If we take this image and apply it to ourselves, we can imagine the responsibility we each have to our own soul. Just as the parish priest was available at life's crucial moments, not as a doctor or healer, but simply to accompany and tend the soul in times of birth, illness, marriage, crisis and death, we can respond to our own soul as it winds its way through the maze of our life's unfolding." As providers of services to crime victims, all of us recognize we are involved in the crisis of the victimization, sometimes resulting in death. Our religious leaders of all faiths need education, training, and sensitivity to appropriately provide that spiritual component which is such an imperative part of total restoration .

### II. MANY PEOPLE GO FIRST TO CLERGY FOR ASSISTANCE IN A CRISIS

During 1997 hundreds of thousands of crime victims will seek help from their religious leaders...many will find their needs met. In recent years,

some seminaries and institutions of higher learning for religious leaders have begun to address crime victim needs, especially in teachings regarding family violence. Many crime victims, however, will go first to their clergy person and not find the assistance, counsel and solace they seek. Many will find a crisis situation dangerously unresolved. Many clergy have not yet familiarized themselves with the dynamics of various forms of violent crime. They are not familiar with the aftermath of anger, fear, confusion, and faith crisis encountered by crime victims and their families. Despite the best efforts of law enforcement, mental health providers, victim advocates, prosecuting attorneys, domestic violence shelter personnel, rape crisis center personnel, child protective services, elder abuse program personnel, and others, we still need to forge new partnerships, new alliances. Religious leaders need to become part of the dialogue when communities begin and expand their services to crime victims. The religious community is extraordinarily multi-faceted, diverse and complex. But the crime victim's trauma is a matter of the soul. The importance of increasing clergy understanding of the crime victim's situation cannot be understated. It often becomes a role of victim service providers in each discipline to proactively begin seeking out clergy and organizing training. Education can provide clergy the tools, resources and expertise to not only give spiritual help, but referrals to other appropriate avenues of assistance sought by those in trauma.

### **III. THE RELIGIOUS COMMUNITY IS AN EXISTING SOCIAL INSTITUTION COMMITTED TO HELP THE HURTING**

Long after the police/law enforcement investigations are over; long after the victim advocates have been forced to help the newest crime victims; long after a woman and her children have left the domestic violence shelter; long after the prosecuting attorney has completed the trial, the community of faith will still be there. They are there for the long haul. They are there when the immediate crisis is over. Persons and families who experience violent crime will never be the same again. The people

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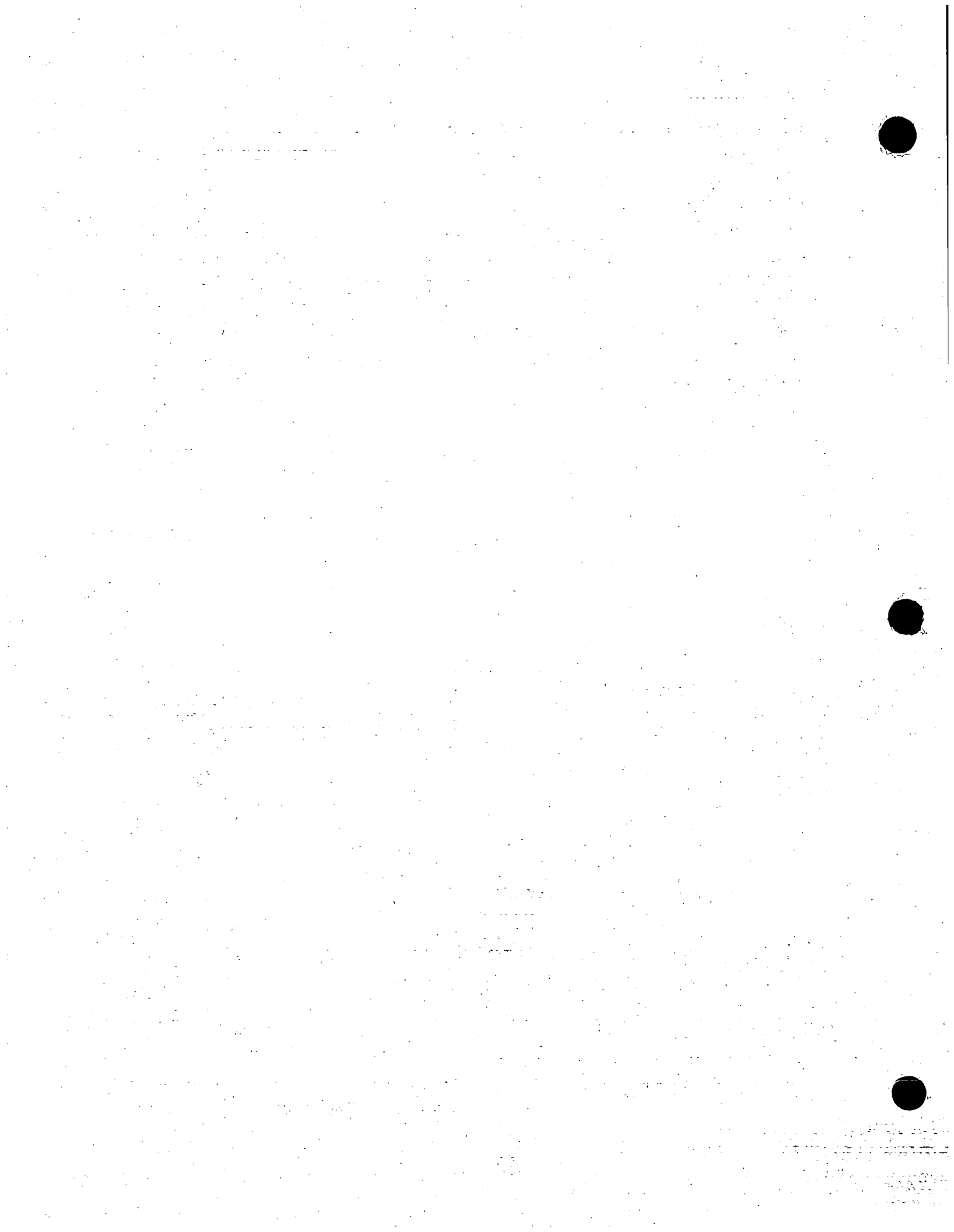
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P. O. Box 6736, Denver, CO 80206 303 333-8810

of God, we trust, are there, as many homicide survivors say, "to listen for a long, long time". Trained, sensitive religious leaders can be a part of the long term healing support system.

There is an increasing understanding of the importance of the spiritual dimension in healing. Out of the depths of terrible terrible pain and anguish can come a journey back toward wholeness. But, the religious community needs to understand how to be an instrument of healing with respect, compassion and understanding. We have the privilege and obligation to be part of increasing the partnerships between all segments of the religious community and those presently involved in assisting crime victims.





**EIGHT WAYS VICTIM SERVICE PROVIDERS  
CAN INVOLVE THE RELIGIOUS COMMUNITY  
IN SERVICES TO VICTIMS OF CRIME**

- I. Partner with clergy associations and alliances to present training on information which will help them better understand and minister to crime victims.**

Suggestions for conducting a clergy training event are included as an addendum to this handout.

- II. Add clergy/ ministerial associations to your organizational mailing list. Para-religious organizations which include laity may also be added to your mailing lists.**

Provide them with information regarding upcoming trainings, volunteer opportunities, fundraisers, announcements of Victim Rights Week activities (both local, statewide and national), provide them with calendars which include information such as: April is Child Abuse Prevention and National Sexual Assault Awareness Month, May 8, 1997 is National Missing Children's Day, Domestic Violence Awareness and Crime Prevention Month is October, and that December is National Drunk Driving Awareness Month.

- III. Invite clergy to submit articles, homilies or comments for your newsletters.**

Offer resource materials from your research files to assist them when needed.

**IV. Encourage congregations to involve membership in volunteering for your organization.**

Informational materials, screening, training sessions will all add to the knowledge of those within congregations. Often existing volunteers can be a source of involving their own congregations in educational events, etc.

**V. Identify specific groups in congregations who would like to have more information on specific forms of crime victimization. Offer to speak at religious gatherings.**

For example, a senior citizen Sunday School or religious education study group might be interested in doing a segment or a series on elder abuse or consumer fraud. Some congregations might take information and hold discussions on Biblical responses.

**VI. Ask either Ministerial Alliances as a group or individual congregations to support legislation, or a local program you are initiating or supporting.**

You will have a built in forum of interested listeners when you go to explain your cause.

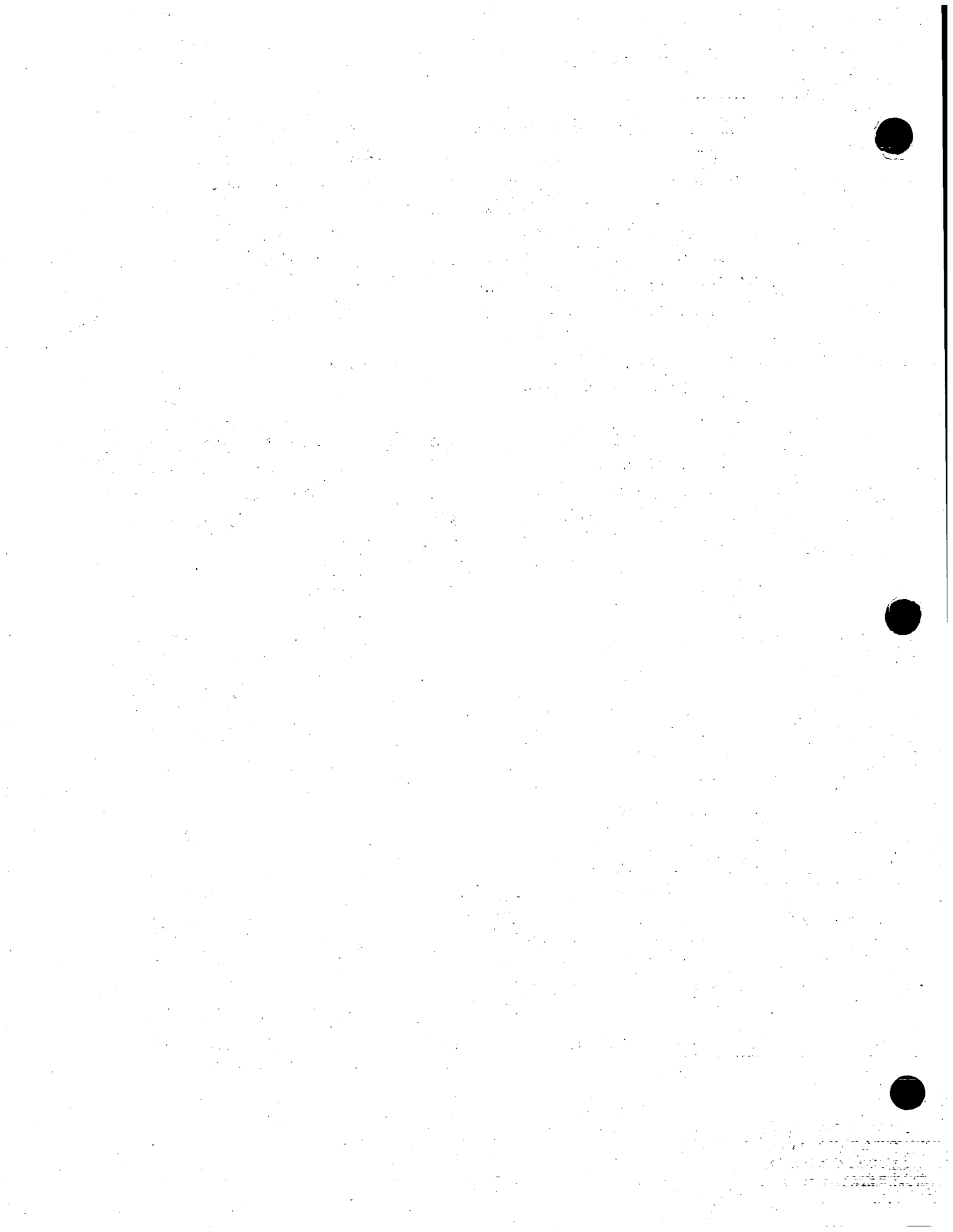
**VII. Work with local congregations to encourage long term support groups for survivors of violent crime.**

Mothers Against Drunk Driving has published a marvelous How-To-Guide For Victim Support Groups. This publication, written by Carolyn Cantrell, Assistant Director, Victim Services, MADD, though mainly directed at homicide survivors and seriously injured, provides

excellent information for all crime victims. Congregations can provide space, refreshments if desired by participants. For the almost one half of all victims of violent crime, whose victimization never comes to the attention of law enforcement, a support group could be a safe place to find out information, to make decisions, to become empowered, to understand, in the company of those who have been through something similar, their strong feelings and emotions. They can gain insight to determine future steps, etc. etc.

**VIII. Work with the Spiritual Concerns Committees of such organizations as Kiwanis, Rotary, Soroptomist.**

Engage their help in printing and distributing to religious congregations pamphlets such as those developed by the National Crime Prevention Council and the National Sheriffs' Association in conjunction with Radio Shack. Such topics as *How Can I Protect Kids From Crime and Violence?*, *How Can Senior Citizens Protect Themselves Against Crime?* or *What Can I Do About Domestic Violence?*



## CONDUCTING A CLERGY TRAINING EVENT

The suggestions outlined in this section arise from the experience of The Spiritual Dimension in Victim Services in conducting clergy training events across the country over several years.

### 1. Subject Matter

A broad-based training event on crime victim assistance would cover at least an elementary overview of:

- Child Abuse (physical, emotional, sexual) and Neglect
- Domestic Violence (spousal/partner abuse)
- Elderly Abuse
- Rape
- Robbery, Assault, Burglary
- Violent Death (homicide/drunk driving) and
- Positive Congregational Response.

The first decision to make is whether a training event should cover all areas or only one or two. To cover all areas, treatment must be elementary giving only basic information on each. Dealing with fewer areas would, of course, result in more detailed treatment. There are advantages both ways.

The advantage of covering all facets of victimization is that clergy and religious leaders need to be aware of its many aspects, and have some elementary information on how to respond to each one, even if the response is merely to refer to proper service provider, and support the victim through the assistance process.

The advantage of limiting the training to only one or two areas of victimization is that a more detailed consideration of the issues can be given resulting in a better, more informed response.

### 2. The Program

The program can be a combination of plenary sessions and workshops, using local victim service providers and clergy knowledgeable in victim assistance as presenters. Almost all areas of the country now have good people who work daily in the field. The local district attorney's office or law enforcement agency can advise of the resources for each area of victimization. Also there are national resources (listed after each section of this manual) which can provide information as to whom to contact in their particular discipline.

A keynote speaker may also be desirable. A clergyperson who works with victims is probably preferable, but other known leaders in the victim assistance movement who are sympathetic to the involvement of the religious community can also be used very effectively. Again, the national resources can provide possibilities.

Another entirely different approach to clergy in-service training is to engage a trainer to put on the entire program. The Spiritual Dimension in Victim Services can provide this service, either by giving a basic treatment of the entire spectrum of victimization or by treating in more depth one or two selected areas. Trainers from this organization also have an understanding of the various theological nuances in the religious community and are able to speak to victim issues without offending.

Also, many local victim service agencies can also provide trainers in the specific field in which they work. It is important that such trainers have a general understanding of the religious community in all of its variety, and are willing to relate to every type of congregational leader.

### **3. Length of the Event**

The next consideration is the length of the training event, whether one day, a day and an evening, or longer.

The longer the event, the fewer the number of clergy and religious leaders who will probably be able to attend. However, a day and an evening, each complete in itself, but not repetitive, will probably draw two separate groups (with some attending both), resulting in greater overall attendance.

### **4. Registration Charge**

Generally, it is good to keep the cost as low as possible. The charge should be keyed to the expenses. Ideally the event should break even.

If presenters from local service provider and law enforcement agencies are willing to participate without charge as an outreach of their programs, the charge can be kept down.

Donation of a facility also helps. Private (for profit) hospitals are often willing to do this, and some, if they receive some acknowledgment in the publicity, are even willing to pick up the cost of the meals. Some schools and colleges will provide space merely for the cost of custodial service and utilities. Most hotels charge for space, but some will donate the room or rooms if they obtain the meal contract.

Sometimes a corporation, foundation or denomination will contribute to the costs of such an event. However, even if the event is totally funded, a small registration charge should be made. People tend to have a greater appreciation of an event for which there is a cost. Any excess funds could always be contributed back to the agencies or congregations of the presenters, or held as a fund for follow-up event.

Also, The Spiritual Dimension in Victim Services (303) 333-8810 has other options available for funding of such training events.

## 5. Facility

A neutral site is preferable. There are clergy who have difficulty relating to secular service providers, but there are many more who have difficulty relating to clergy of other faith stances. Religious differences are strong. Among Christians alone there are fundamentalists, evangelicals, liberals, "mainliners" (Catholic and Protestant) and independents. Beyond this there are the "extra-biblical" religions which hold texts other than the Bible as equally inspired and authoritative. Also to be given important consideration are those of faiths other than Judeo-Christian (Buddhist, Hindu, Moslem, etc.).

One year The Spiritual Dimension in Victim Services conducted four training events under the Clergy In-Service Training Initiative. One was in a Christian church, one was in a college, one was in a hotel and one was in a Jewish synagogue. The two trainings with the largest attendance were at the hotel and the college. Site may not have been the only contributing factor in the variation of attendance, but it seemed to be one.

There are many land mines along the way towards conducting a clergy training event. One can be avoided by selecting a neutral site such as a hospital, college, hotel, retreat center (which hosts many types of groups), conference center or a corporate conference room. Some of these may even donate space. (See note above on costs.)

## 6. Meals

It is best to keep meals simple in order to lower the costs. Hotels, hospitals and conference centers may have their own food service. Good caterers are always available and will work within the selected budget.

Meats should be avoided. Some religions encourage vegetarianism, and others do not allow the eating of ham or pork. If meat is offered it is safest to stick with the chicken or fish, and to be certain to also offer a vegetarian choice.



It should be kept in mind that when hotels and some catering services quote a price, it may or may not include tax and gratuity. This will be charged, however, regardless of the original quote. Therefore it should be included in the initial agreement. These items can increase the cost by 18 to 20%.

Coffee, tea and possibly rolls and muffins in the morning, and fruit, sodas or juice in the afternoon contribute to the enjoyment of the event. If offered, they must, of course, be considered in the overall cost.

## **7. Registration**

It is necessary to have an address to which pre-registrations may be sent. Preferably this should be the office of one of the planning committee members which has computer capability. This enables acknowledgment and alphabetization.

A sufficient number of volunteers should be enlisted for on-site registration. It is helpful to have name tags of pre-registrants made up beforehand. Alphabetization of advance registration is essential.

## **8. Handouts**

The only essential handout at registration is a schedule for the day. This can be expanded by including all of the handout material of the presenters, and biographical information on them if desired, in one packet. Or the presenters can give out their own handouts at each workshop.

*Note:* If the training covers all aspects of victimization, it is probable that registrants will be able to attend only two or three of the possible seven workshops offered. In this event, handouts from the other workshops should be made available to all.

## **9. Day**

The best days for clergy in-service trainings seem to be Tuesday or Thursday. Monday, and in some cases Friday, is often a day off for clergy. Also, Friday is the beginning of Jewish Sabbath. Friday and Saturday are also often preparation days. Wednesday is frequently a church activity day (but an acceptable third choice). Weekends, of course, are generally not advisable. Avoid religious holidays, particularly Lent, Passover, Easter, Rosh Hashanah to Yom Kippur, Hanukkah and the Christmas holidays.

## 10. Promotion and Publicity

How to get clergy and religious leaders to attend? This is the big one! There are many stories of great conferences that have been planned for clergy and the religious community, but there were not enough registrations to justify continuing. Some methods that can generate good participation are listed below.

a. From the beginning include clergy and religious leaders in the planning process. It is never as effective for others to totally plan a program for the religious. Clergy can give leads into their denominational structure and encourage their peers to attend. They also can give good advice on what will and what will not work.

In every community there are clergy who are interested in the needs of victims. The best leads to these come from the victim assistance providers. They have heard from these clergy. Also, many on the staffs of these agencies are active in their own congregations, and can encourage their own minister, priest, rabbi, or imam to help in the project.

b. There are many besides clergy in congregations who need to be aware of the needs of victims, and who can assist. These include counselors, teachers, associate pastors, priests or rabbis, youth workers, religious educators, interested lay persons. Expand the invitation to include all of these.

Of course, it is most helpful if the senior pastor, priest, rabbi, or imam attends and learns of these issues first hand. He or she can lend support to any congregational effort that may arise out of the conference. This support can take several forms: preaching on the subject, being aware of the indicators, and looking for them in pastoral counseling, encouraging assistance programs, etc.

c. Credibility is important. Clergy receive volumes of invitations to varied events. The training must be something that touches his or her needs, and it must be presented by known agencies. Governmental backing is helpful (e.g., District Attorney's office, law enforcement or state or local social services).

It is good to get sponsors from various groups. These could include denominational offices and ministerial and rabbinical associations. It is important that the associations include both the conservative and the more liberal clergy. Often there are different associations for each. Sponsors can also include hospitals, seminaries, religious-based colleges, Bible schools, victim service provider agencies (both public and private) and interested businesses and corporations.

d. Clergy should be part of the training program. Often they can be workshop leaders along with victim service providers. Clergy will see the victim assistance issues from the spiritual perspective, and an understanding of the dynamics neces-

sary for congregational involvement. Clergy who are part of the program should have some background in, and understanding of crime victim assistance.

e. "Save-the-Date" cards, mailed out well in advance, are helpful. The brighter and more eye catching the color the better. This card allows the recipient to at least tentatively mark the event down in his or her calendar. It should also outline the issues to be covered and advise that detailed information will follow.

f. A brochure should be developed that provides the date of the event, time, location (possibly with a map), purpose of the training, outline of the program, presenters, sponsors, cost, pre-registration deadline, whether or not registrations will be accepted by phone or at the door, a return registration form with address and phone of the registrar. If possible the brochure should not be too "busy." There should be white space.

g. Mailing lists are crucial. Some ministerial associations have lists. If at all possible, lists should have the names of the pastor, priest, rabbi, or imam. Denominational directories are the best source for this. However, there are many independent churches (some very large) that are not in such directories. The most complete list of all congregations is in the Yellow Pages. Be sure to look under "Synagogues," "Mosques" and "Religions and Religious Organizations" as well as under "Churches." Some from this source have clergy names; many do not. None have zip codes. Obtaining these from a zip code directory is a volunteer job.

Associations are also a good source. Some of these are the local affiliates of The National Sunday School Association, National Association of Evangelicals, National Council of Churches and the National Council of Christians and Jews.

h. The most effective method of assuring a good attendance is through follow-up phone calls. This is also the most difficult to implement. A method by which each volunteer has only to make a very few calls to people with whom he or she feels comfortable is the best. The call need not be difficult, simply, "Did you receive the information on the conference? Had you planned to attend? Do you have any questions?"

Attempts to involve the religious community in victim services can be very rewarding. Many people of faith are anxious to learn, to improve their responses, and to institute effective programs. The people of God are a great potential resource for victim assistance.

## 10 STEPS TO EFFECTIVE VICTIM-WITNESS COORDINATION

1. Meet with LECC|Victim-Witness Coordinator(s) in your area.
2. Determine the services they provide and their procedure for case referral.
3. Develop a referral sheet to accompany information at the time of case filing.
4. Complete "Community Victim-Witness Resources" Sheet for each of your service areas.
5. Establish formal liaison with are Victim\Witness Subcommittees.
6. Obtain information brochures from V\W Coordinator or agency.
7. Issue Area\Regional policy establishing responsibilities for Victim Rights and Assistance.
  - Make certain policy details formal response to:
    - Domestic Violence
    - Child Abuse\Child Sexual abuse
8. Set up Staff Meetings to:
  - Discuss policy
  - Distribute information brochures, Community Resources Sheets and U.S. Attorney's Office Referral Sheets.
  - Show video "Because You Need To Know"
  - Invite U.S. Attorney's personnel to attend and assist with training.
9. Recognize the exemplary efforts of individual case agents on behalf of crime victims. Consider an article in "Network News" or other professional publications.
10. Stay up to date on changes in laws and services and provide updates to the field.

COMMUNITY VICTIM/WITNESS RESOURCES

CRIMES COMPENSATION

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UNITED STATES ATTORNEY VICTIM/WITNESS COORDINATOR

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SEXUAL ASSAULT

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DOMESTIC VIOLENCE

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CHILD ABUSE \ CHILD SEXUAL ABUSE

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VICTIM/WITNESS PROTECTION

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STATE VICTIM/WITNESS NETWORKS

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MOTHERS AGAINST DRUNK DRIVING

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PARENTS OF MURDERED CHILDREN

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## Developing Program Standards

### Preface

Of all the efforts to fashion performance standards for victim assistance programs, probably the most intense has been the development of the "Model Victim Assistance Program" for the United States Justice Department. The latest version of that document follows in its entirety.

As is explained in the introduction of the model, it, like others in the series, was designed to help planners, prospective grantees, and administrators begin and operate one of the criminal justice innovations named in the Justice Assistance Act in the mid-1980s. While it has served that purpose, the Model Victim Assistance Program has been used in other ways as well, as is noted in the Introduction:

"While the Victim Assistance Program Model has been used as the planning tool it was intended to be, it is far more frequently used by existing service programs in a narrower way: to use the 'performance guidelines' in Part III, arguably the heart of the Model, to assess the progress of their own programs and communities, to explore service innovations and expansion, and, most important of all, to help build a case for increased resources for those who control their state or community purse-strings."

However readers intend to use them, it is the performance standards in Part III which are the principle focus of NOVA's training in this area.

As a convenience to readers, the title page, table of contents, and rest of the document is reproduced in the chapter that follows so that it may serve as a "stand-alone" document.

## Model Victim Assistance Program

A "Program Brief"  
prepared for the

Bureau of Justice Assistance  
and the  
Office for Victims of Crime  
of the  
Office of Justice Programs,  
United States Department of Justice

by

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Washington, D.C.

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## Introduction

### A. Background

The "Model Victim Assistance Program" has played an interesting role in the history of the victims' movement, for it has served as an evolving tool to help define and describe a major service innovation and, indeed, a new profession. The way this document was developed is also part of that history.

In the mid-1980s, the U.S. Justice Department, responsible for administering the "Justice Assistance Act," wrote or commissioned "program models" for each of the criminal justice innovations named by Congress as eligible to receive JAA funding. These were to serve as guides to applicants, grantees, and grant administrators. Of the nearly twenty such program models prepared in this way, by far the most elaborate was the one on victim assistance—because that innovation, unlike, say, a "career criminal" prosecution unit, was an extended family of related services, typically housed in a network of agencies.

The Model Victim Assistance Program was not only the most elaborate in length, it also became the most elaborate in design. It is a synthesis of knowledge and experience gained over the last two decades from work with prosecutor-, police-, and corrections-based victim/witness service programs, and from community-based victim assistance projects, notably those serving victims of sexual assault programs and family violence. The Model incorporates policies from the 1982 report of the President's Task Force on Victims of Crime, information gained from practitioners, and research on the needs of underserved victims.

Moreover, most of its details, especially in the standards, came from a panel of experienced program managers, later tested by about 100 of their colleagues nationwide, when the model was first developed from 1986 to 1988 under a Bureau of Justice Assistance-sponsored project. Later, with support from the Office for Victims of Crime, the model has been expanded to incorporate such developing services to victims of drug-related crime.

The thinking behind, and the philosophy of, the model was also developed in a consensus manner. It can be stated this way:

The concern for the victim is paramount. There is strong research evidence to indicate that when program goals focus on recovery of the victim, criminal justice performance is improved. The experience of the more effective programs, which have benefited from consistent administrative and funding support since the early 1970's, has shown that establishing a primary goal of humanitarian concerns for victims benefits, rather than hinders, criminal justice goals. These proven programs have been found to be helpful to police officers, investigators, prosecutors, judges, and probation officers.

That primary focus on the victim was significant, because all the other "program models" published in this series were quite properly focused on criminal justice agencies. The fact

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that the Victim Assistance Program necessarily described services to victims who had little or no contact with the justice system also made it unusual.

In other respects, the publication follows the format of the "program model" series. It is addressed to those who would like to start the innovation in question, and so its "critical elements," as the Justice Department calls them, include: assessing existing victim services in the community; defining the parameters of the program; establishing the service delivery system; establishing a management system; and evaluating the program's progress and effects.

While the Victim Assistance Program Model has been used as the planning tool it was intended to be, it is far more frequently used by existing service programs in a narrower way: to use the "performance guidelines" in Part III, arguably the heart of the Model, to assess the progress of their own programs and communities, to explore service innovations and expansion, and, most important of all, to help build a case for increased resources for those who control their state or community purse-strings.

The balance of this introductory section follows the format of the program model series.

### B. Goal and Objectives

**Goal:** The goal of the Victim Assistance Program is to improve the treatment of all victims of crime by providing victims with the assistance and services necessary to speed their recovery from a criminal act, and to support and aid them as they move through the criminal justice process.

**Objectives:** The objectives of the program are to:

1. Increase the commitment of state and local government to do all that is possible to assist victims of crime;
2. Increase the range and availability of services for victims of crime from the time of the criminal act and throughout the aftermath;
3. Expand the victim's opportunity to participate at all critical stages of the criminal justice process, and to ensure consideration of the impact of the crime upon the victim in all major criminal justice decisions; and
4. Increase coordination and networking of all appropriate agencies, organizations, and groups providing services to victims of crime or affecting the treatment of victims of crime in order to develop an integrated community system of victim assistance.
5. Increase the attention and the quality of outreach and treatment of underserved victims of crime such as victims of drug-related crime, victims who are members of racial minorities, victims of hate crime, victims of family violence and others.

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### C. The Problem and the Challenge it Presents

#### *The Problem*

After hearing the testimony of over 1,000 victims and the professionals who serve them, the President's 1982 Task Force on Victims of Crime concluded that the neglect and mistreatment of crime victims is a national disgrace. While the laws and services addressing crime victims have changed radically over the past decade, and the criminal justice system is in a state of reform in its treatment of victims, there are still many jurisdictions that fail to assist victims either within or outside of the criminal justice process. In addition, it has become apparent that a variety of other institutions often add insult to injury for victims in the aftermath of the criminal event, and that these institutions too are in need of reform.

#### *The Challenge*

There should be established in appropriate government and community agencies separate victim service units or programs, which should be solely dedicated to providing services to victims of crime, helping them cope with the traumatic effects of the criminal act and the aftermath.

The programs should be well organized, with clearly defined goals; staffed by trained, competent personnel; adequately funded; and visibly supported by host agencies or governmental authorities in state and local jurisdictions.

Programs should have the capability of providing a comprehensive system of service to victims, or their more limited services should complement an existing victim service system to ensure continuity of support for victims. It is important that program actions be coordinated with those of other victim service programs, agencies within the criminal justice system, community social service agencies, and business organizations.

And it is vital that programs seek to ensure that traditionally underserved victims be given special attention, appropriate outreach, and services that address their unique needs. Such underserved victims include victims of drug-related crime, racial and ethnic minorities, victims of hate or bias crimes, the homeless, the differently-abled, and so forth.

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## I. Assess existing victim needs and services in the community.

It is recommended that assessment takes place prior to the initiation of a victim service program in a community and that it is then updated as needed. While it is advisable to conduct a reassessment annually, the scope of the reassessment may be far more limited than in the original assessment.

### A. Implementation Steps:

1. Establish an advisory body to oversee the needs assessment of victim services in the community. Ideally the advisory body should be drawn from the broadest base possible. A broad base promotes inter-agency cooperation and provides a better picture of the needs and resources in a community. However, some programs may not be able to work with such an advisory body due to host agency restrictions. As a practical matter, even if the advisory body is a large broad-based entity, it may be wise to establish a steering committee or executive committee as a working group that reports back to the advisory body. It should be emphasized that this body is advisory only and not decision-making.
2. Define goals of the assessment. The goals of a needs assessment should be clearly identified and written. Goals may vary from year to year.
3. Define the scope of the assessment. The first year the scope of the assessment should include the entire community or jurisdiction that your program serves. However, programs that serve only one type of victim may limit the assessment to the needs of that particular population group. The broader the scope of the needs assessment, the more useful it will be in community wide planning. In later years, the program may find it useful to modify the scope of the assessment.
4. Implement assessment of needs and services.
  - a. Identify sources of data to be used for needs assessment portion of study. Police report data is basic information but may leave out non-reported crime. Existing research data may amplify such information, but, alone may still not be complete. The more different types of data that are used, the more likely it is that the assessment will reflect what is going on in your community.
  - b. Identify sources of data to be used for services portion of study. Seeking information from the service agencies themselves is a must. However, it may be useful to integrate this data with interviews or questionnaires of those who have been served. Another dimension to consider is the perspective of other service providers.
  - c. Identify the individual or group to do assessment. While some programs choose to do assessments in-house due to resource limitations or political reasons, it is usually more useful to have an outside group or individual do the assessment. However, if you choose someone from outside your agency, be sure he or she is well versed in victim services and victimology. And, be sure you spend adequate time defining the goals of your assessment.

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- d. Decide upon guidelines for analysis of data. What are the standards for interpreting the compilation of data. Will it be a straightforward reporting of the questionnaire results. Will there be an effort to compare the results with standards developed by your program and its advisory body, by the state, by the federal government, or by independent state or national organizations?
- e. Set the schedule for assessment. It is important to review and conduct needs and service assessments on a regular basis. Funding, leadership, legislation and other things affect the delivery of services. Environmental changes, the influence of drugs, changes in school standards, and the like may affect the nature of crime itself. Hence ongoing assessment efforts are to be applauded.
- f. Establish a budget for the assessment. If an assessment budget is not a part of the regular action plan for the organization, it will often not receive the attention it deserves.

### B. Performance Guidelines for the assessment.

The performance guidelines for this program element are necessarily brief since each community and each agency may function differently.

1. Membership of the advisory body. The more groups that are represented in this body, the better.
2. Schedule for advisory body's meetings. The advisory body should meet as often as necessary to ensure that there is a quality assessment product. Some advisory groups may only need to meet once or twice because the members have input and other methods of communication with the individual responsible for the needs assessment. Other groups may want to meet monthly.
3. Goals for the assessment. All of the following goals are legitimate goals for the assessment: identification of gaps in services; documentation of accomplishments and problem areas in service delivery; monitoring and redefinition of service priorities; defining the basis for a long-term plan and annual action plan. Goals may vary from time to time.
4. Scope of the assessment. The assessment will be improved as the scope is broadened.
5. Type of data used for needs assessment. The following types of data are useful: police report data; volunteered testimony from victims and others in the community through hearings; existing research data and newspaper reports; and victim surveys in the community. The more sources of data used, the more useful the needs assessment.
6. Types of data used for service assessment. The following types of data are useful: questionnaires or interviews of all victim-serving agencies in the community that summarize the scope of their services; user questionnaires or interviews of selected victims; questionnaires or interviews of service providers regarding their colleague agencies; and local, state, or federal records and documentation of services provided through required reports. The effort will be improved if many different data sources are used effectively.

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7. Individuals or agencies conducting the assessment. In-house assessments are often the least useful if they are not conducted with an outside consultant. They are vulnerable to bias and accusations of self-interest. If an outside consultant is used, they are improved. If the consultant is supplemented with outside interviewers, the assessments can be even more useful. If resources are available, it is most useful to hire an outside assessment team.
8. Standards for analysis of data. Standards might be drawn from those promulgated by state, federal, or outside organizations. However, if they are the basis for analysis, it is better to modify them to reflect local needs. If resources are available, the preferable method would be to develop standards locally and then compare and modify them in light of independently developed standards.
9. Schedule for assessments. A needs assessment should be made prior to the initiation of a program. If that has not occurred, it is useful to do a comprehensive assessment at any time to ensure that the program is meeting the needs of the community. Once a broad assessment has been done, it should be updated as needed. Those updates should be done on an annual basis even if they are not based on an assessment with the breadth or depth of the first investigation and analysis of data.

### II. Define program parameters.

This element is designed to analyze program resources, obstacles and barriers to program development, and philosophy and goals of program sponsors and directors. It should help new and existing programs recognize their strengths and weaknesses and plan how they might phase in changes and improvements.

#### A. Implementation Steps.

1. Analyze existing gaps and priorities in victim services and identify which missing services are appropriate for your agency to implement now and in the future, and which are appropriate for other groups. Consider the following issues (these are not designed to be exclusive, but to encourage your own questions):
  - a. How does the criminal justice system work in my community?
    - How do privacy laws affect law enforcement and other criminal justice records?
    - How are law enforcement reports made?
    - How are cases processed?
    - What laws or policies govern the information a victim receives or the participation that s/he may be afforded?
    - What are the alternatives to trial, for example, diversion programs, plea agreements and the like?
    - What happens at sentencing?
    - What happens after case disposition?
    - What happens when someone is on probation or when someone is up for parole or clemency?

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- Are there special victim services targeting criminal justice staff who are victimized — law enforcement officers, prosecutors, correctional personnel, or members of the judiciary?
  - What are the differences between the adult criminal justice system and the juvenile justice system?
  - Do the criminal justice professionals receive special training on victim issues, violence prevention, substance abuse, and cross-cultural service delivery?
- b. How are mental health services provided in my community?
- Is there a twenty-four hour crisis number for the non-chronically mentally ill?
  - Are there twenty-four hour walk-in services?
  - Is there a community mental health center and who does it serve? What are the fees?
  - What resources are there available among private mental health professionals?
  - How are referrals made to mental health professionals or the community mental health center?
  - What role does the clergy play in local mental health services?
  - Are mental health professionals, the clergy, or professionals in substance abuse prevention and treatment trained in basic victim issues, violence prevention and cross-cultural service delivery?
- c. How are services provided to substance abusers in my community?
- Are there twenty-four hour crisis services?
  - Are there residential treatment centers at no cost to the abuser? If so, how many beds are available at any one time?
  - What is the philosophy of substance abuse treatment?
  - What is the range of substance abuse treatment services?
  - How are referrals made to treatment facilities?
  - Do the substance abuse professionals receive special training in victim issues and providing cross-cultural service delivery?
- d. What are the substance abuse prevention programs that exist in my community?
- Are there grassroots or community-based organizations that are fighting drugs and substance abuse? If so, where do they exist?
  - What are the range of substance abuse prevention programs; for example, school based, law enforcement driven, church-based?
  - What elements of substance abuse prevention are addressed?
  - Are those involved in substance abuse prevention trained in dealing with victim issues and providing cross-cultural service delivery?
- e. What other victim services exist in the community at this time?
- Who do they serve?
  - What hours are they available?
  - What types of service do they provide?
  - Are there eligibility requirements?



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- What services need to be provided as a part of a comprehensive network?
  - What services are particularly appropriate for my agency?
  - Based on community and agency resources, what can be implemented now, one year from now, and at an unspecified time in the future?
  - What services are particularly appropriate for other agencies and which agencies can provide them?
- f. What kind of services are provided by hospitals for victims of crime?
- Are there specialized services for survivors of homicide, catastrophic physical injury, sexual assault, or family violence that are offered in local hospitals?
  - Have doctors established any specialized protocols for identifying and responding to family violence victims, victims of child sexual abuse or physical abuse, victims of elderly abuse, or victims of sexual assault?
  - Are there different treatment protocols for dealing with victims who are also substance abusers?
  - Do hospital personnel receive special training in responding to victims of crime, substance abusers, and providing cross-cultural service delivery?
- g. Are there special services, curricula, or programs in the school system to address victimization, violence prevention, substance abuse, and cross-cultural issues?
- Do the schools involve law enforcement officers in educational programs with children in substance abuse?
  - Are there special classes or presentations made to children and adolescents on sexual assault, family violence, child abuse and the like?
  - Are there special classes dealing with anger management or conflict resolution?
  - Are there victim assistance programs for school staff or victims of school violence?
  - Are teachers and counselors trained in dealing with victims of crime?
2. Analyze the barriers to implementation of the services you wish to implement. Consider the following issues.
- a. Do or will I have access to all the data I need?
  - b. Do or will I have cooperation from all allied agencies that are necessary to providing effective service?
  - c. Do or will I have adequate staff?
  - d. Do or will I have adequate in-kind or financial resources?
  - e. Are there people in my office that will be opposed to the institution of these additional services?
  - f. Does the placement of the program within a specific agency or as an independent project assist or limit the implementation of services?
  - g. Do or will program logistics assist or limit the implementation of services?
3. Define what type of victim will be served and any eligibility requirements. Consider the following issues.

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- a. Will service be restricted to a particular type of victim such as those who have suffered sexual assault, spouse abuse, child abuse, or survived homicide victims?
  - b. Will the service be restricted to a certain number of victims?
  - c. Will the services be restricted to victims who meet certain eligibility standards such as: age, geographical location, income level, and so on?
  - d. Will the services target any particular population group such as: children, the elderly, racial minorities, gays and lesbians, victims of drug-related crime, and so on?
4. Identify the sources of victim access to your agency.
- a. Service providers are called directly by victims of crime.
  - b. Service providers are called by law enforcement and hospitals to respond to crime scene or to location of victim.
  - c. Service providers review law enforcement reports and call victims to offer service.
  - d. Service providers are given referrals by law enforcement, other criminal justice agencies, medical agencies, social service agencies, educational institutions and others.
5. Analyze how you can help other agencies provide services for which you are not equipped.
- a. Review the service needs to which you will not be able to directly respond.
  - b. Meet with other agencies to discuss how they might be able to help fill those service needs.
  - c. Work with other agencies to promote each other's services and to develop an active referral network for services.
  - d. Avoid duplication of services or efforts.
6. Summarize your analysis in a brief program outline of strengths and weaknesses of your program.
- B. Performance Guidelines for setting program parameters:
1. Agency goals and objectives should be clearly written.
  2. A written program description should exist that addresses the questions raised above.
  3. Where appropriate, an annual action plan should be written and address program purposes, strategies for action, clients to be served, and coordination activities.

### III. Establish a service delivery system:

The implementation steps listed below are a check list of what needs to be in place prior to the initiation of services. It is followed by an outline of the components of the service delivery system. There are four basic components to be addressed: who receives services; when services are available; types of services that may be provided; and the types of training that the providers should receive.

#### A. Implementation Steps:

1. Establish service goals (see analysis below).
2. Develop annual program outline as indicated above.
3. Define budget needs and funding sources.

## NATIONAL SYMPOSIUM ON FEDERAL CRIME VICTIMS

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4. Locate office space.
5. Develop job descriptions for paid and unpaid staff.
6. Establish a case management system.
7. Establish service delivery protocols with special attention to the safety of paid and unpaid staff.
8. Hire or recruit paid and unpaid staff.
9. Train staff or volunteers.
10. Establish regular telephone service and long-distance service where appropriate.
  - a. Try to obtain an easy to remember telephone number to aid victims or referral agencies in accessing the service.
  - b. Establish no-cost long distance service if possible.
11. Contract with or establish a twenty-four hour answering service to respond to and screen all calls for service where appropriate.
12. Contract for twenty-four hour beeper service to alert victim counselors/advocates to emergency calls where appropriate.
13. Identify transportation methods that will be used to provide response service where appropriate.
14. Furnish or update office equipment.
15. Identify emergency and follow-up referral agencies in your community and state.
16. Alert referral agencies and the public to the availability of your services, the nature of those services, and how to contact the service. Make sure that the protocols for referral address safety for your staff.
17. Train personnel at referral agencies in crisis assessment and referral techniques.

### B. Components of Service Delivery System, with Performance Guidelines:

1. Services are offered to the following types of victims.

The types of victims served should be examined in two ways. First, what types of victims are served in your entire community (include those served in your own program and those served by others)? To assess the level of performance in this area, the guidelines listed in "a," below, have been developed. Second, what types of victims are served in your own program? Performance guidelines in response to this question are listed under "b". You will note that the intent of these guidelines is to encourage the promotion of community-wide services for all victims. However, if your program serves only one type of victim, you may still meet the standard for excellence if you are part of a community-wide network that addresses the needs of other victims.

## NATIONAL SYMPOSIUM ON FEDERAL CRIME VICTIMS

### a. Performance guidelines for community-wide services.

- Basic:**
- Victims of sexual assault.
  - Child victims and their families.
  - Victims of spouse abuse.
  - Surviving families of homicide victims.
  - Victims of severe physical injury.
- Good:**
- All of the above, and
  - At least two additional victim populations — examples include victims of drug-related crime, victims of robbery, burglary victims, elderly victims, victims of vandalism, gay or lesbian victims, racial minority victims, the differently abled, the chronically mentally ill, or the homeless.
- Very Good:**
- All victims of crime.
- Excellent:**
- All victims of crime but the program has special outreach programs for underserved victims in the community and a special emphasis on providing effective cross-cultural service delivery.

### b. Program-specific service: performance guidelines.

- Basic:**
- Program serves one or more victim populations and promotes services for the other groups.
- Good:**
- Program serves one or more victim population, plus provides emergency aid to all victims for whom no other services exist.
- Very Good:**
- The above plus the program actively works to establish services for victims for whom no program exists.
- Excellent:**
- Program serves all victims or is part of a community-wide system of comprehensive aid to all victims with a special issue on providing effective cross-cultural service delivery.

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## 2. Availability of services.

### a. Performance guidelines for immediate crisis intervention response.

- Basic:**
- Twenty-four hour answering service with call-forwarding or beeper to trained counselor.
  - Victim crisis counselor responds by telephone to caller within fifteen minutes of victim call.
- Good:**
- The above, enhanced by crisis counselors who screen police reports within forty-eight hour of receipt and send letters to priority victims notifying them of service.
  - Upon request victim crisis counselor goes to hospital, crime scene, victim's house, or other designated point and arrives within:
    - 15-30 minutes in an urban area.
    - As soon as possible in rural areas.
- Very Good:**
- The above enhanced by twenty-four hour availability of trained staff to go to crime scene, victim's house, or other designated point and arrive within:
    - 15-30 minutes in an urban area.
    - As soon as possible in rural areas.
  - Crisis counselors screen all police reports within twenty-four hours of report, and send counselor to or telephone all priority victims to offer services.
  - Community-based walk-in services as well as a central headquarters for the program.
- Excellent:**
- The above, enhanced by trained crisis counselors who answer all crisis calls directly.

### b. Performance guidelines for "day-after" crisis response.

- Basic:**
- Crisis counselors respond by telephone or home visits to victim self-referrals or referrals from law enforcement within 24 hours.
- Good:**
- The above, plus crisis counselors who are trained in screening protocols screen police reports twice weekly, if possible under laws of privacy. If not possible, police reports are screened twice weekly by the law enforcement agency and sent to the agency. In either case, the program notifies priority victims of services via letter sent within 24 hours.
- Very Good:**
- The above except that police reports are reviewed within 48 hours.
- Excellent:**
- The above, except that police reports are reviewed within 24 hours and a crisis counselor immediately contacts priority victims by phone or in person. Community-based walk-in services are also available.



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## c. Performance guidelines for all other services.

- Basic:** • Services are available 9 a.m. - 5 p.m., Monday-Friday.
- Good:** • The above, plus emergency services are available on request.
- Very Good:** • The above, except that office hours are seven days a week.
- Excellent:** • Twenty-four hour services. Community-based walk-in services are also available.

## 3. Types of services provided.

In reviewing the kinds of services provided, the guidelines are based on one of two forms of service delivery. In each cluster of services, programs should either provide the types of services listed themselves, or in conjunction with other programs that they know do quality work. Hence, if the service exists in the community and is used as regular referral, an individual program should not duplicate it. If it does not exist, then either the program should provide it, or help promote its provision through another agency.

## a. Crisis intervention services - performance guidelines.

- Basic:**
- Crisis intervention counseling.
  - Emergency referrals or direct assistance for medical care, shelter, and food.
  - Emergency referrals or direct assistance for substance abuse treatment.
  - Accessible services for the hearing impaired, seeing impaired, other people with disabilities, and populations whose first language is not English.
- Good:**
- All of the above, enhanced by
  - Emergency referrals or direct assistance for at least 3 of the following:
    - clothing.
    - money.
    - child care.
    - property repair.
    - transportation.
    - death notification.
    - body identification.
    - crime scene clean-up.
    - protection through temporary restraining orders.
    - notification of loved ones.
- Very Good:** • The above plus at least 3 more of the above list.
- Excellent:** • All of the above. In addition, special outreach to underserved victim populations and attention to effective cross-cultural service delivery.

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### b. Counseling and general advocacy services - performance guidelines.

#### **Basic:**

- Supportive individual counseling:
  - generally not longer than six months at any one time unless there is a criminal prosecution.
  - may be renewed counseling of a victim if the crisis is renewed due to a trigger event.
- General advocacy services include:
  - assistance with victim compensation applications.
  - creditor, landlord, and employer intervention.
  - intervention with hospitals, medical, and mental health professionals—particularly where a forensic examination is involved; a concern about HIV infection exists; or where family violence is involved.
  - assistance with protective relocation or shelter for victims of drug-related crime or family violence.
- Information and referral services include:
  - general victimization information.
  - crime and violence prevention information.
  - referrals to all available social services.
  - substance abuse treatment services.
- All services should be available to the hearing impaired, the seeing impaired, other people with disabilities, and those populations whose first language is not English.

#### **Good:**

- All of the above, enhanced by at least 6 of the following additional services:
  - assistance with private insurance claims.
  - support groups for peer victims/survivors.
  - document replacement.
  - arrangements for property repair.
  - mental health referrals.
  - specific victimization information concerning the crime which the victim survived, i.e. survivors of homicide, sexual assault victims, spouse abuse victims, and so on.
  - referrals to competent mental health professionals for long-term care when necessary.
  - publish and distribute a directory of all available referral services.
  - legal referrals concerning civil redress or assistance with the enforcement of victim rights in a criminal proceeding.
  - victim activist group referrals.
  - translator services.
  - group counseling services.

- #### **Very Good:**
- The above plus 6 more of the services above or other services to be added by program.



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- Excellent:**
- All the above, enhanced by
  - Specific victimization information concerning the crime which the victim endured as well as relating to his or her specific circumstances in survival, i.e. materials addressing the concerns of a father of a murdered daughter, or a sister of a sexually abused brother.
  - An emphasis on outreach programs and services for under-served population groups and attention to effective cross cultural service delivery.

### c. Support services during criminal justice investigation - performance guidelines:

- Basic:**
- Program provides at least 8 of the following services:
    - accompaniment to line-ups and photo line-up review sessions.
    - accompaniment to interviews.
    - information about case status.\*
    - brochures about criminal justice process and victim rights handed out at the scene of the crime or at first contact.
    - information on status of any property stolen or removed and on procedures and regulations governing property return.
    - information on arrest status, bail and bond, and pre-trial release.
    - accompaniment to forensic examination\*\* available and forensic examination paid for.
    - information given to victim about victim compensation.
    - information given to victim about available protection, and restraining orders.
    - information on crime prevention.
    - emergency shelter available.
    - social services referral.
  - Services should be accessible to the hearing impaired, the seeing impaired, people with other disabilities, and populations whose first language is not English.
- Good:**
- The above, enhanced by at least 4 of the following:
    - available crime-scene assistance for street-side identification.
    - assistance with obtaining property return.
    - assistance with victim compensation forms as needed.
    - restraining orders made an automatic condition of bail and prepared with complaint.
    - confidential emergency shelter available and relocation services.

\*"Case status" includes the following types of information: if there is the case is closed or open, if there is an active investigation being pursued, if there are suspects, if there is an arrest, and so forth.

\*\*All references to "forensic examinations" refer to sexual assault forensic examinations.



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- Very Good:**
- All of the above, enhanced by
    - crisis intervention capability.
    - death notification assistance and body identification accompaniment.
    - in-person, case-specific explanation of criminal justice process.
    - assistance with obtaining property return within seven days unless evidentiary requirements prohibit it.
    - accompaniment at forensic examination available and cost of exam paid for by agency or other service and victim should never see bill.
    - assistance with victim compensation forms and filing of claim.
- Excellent:**
- The above, plus special programs to address needs of underserved victim population groups including attention to effective cross-cultural service delivery.
  - Special protection programs addressing safety and privacy for certain groups such as victims of drug-related crime, victims of gang violence, victims of hate violence and the like.

### **d. Support services during prosecution - performance guidelines:**

- Basic:**
- Program provides information on all victim rights available in the criminal justice system at first contact.
  - Program provides at least 10 of the following services:
    - coordination of victim and witness appearances at hearings, interviews, and trial with goal of minimizing number of appearances.
    - victim and witness given timely information about case status by mail.
    - victim and witness is provided with personal support through hearings, interviews and trial.
    - victim and witness is provided information about transportation options that are available to facilitate appearances.
    - employer, landlord, creditor intercession services.
    - information on restitution and jurisdictional procedures for requesting it is made available to victim.
    - appropriate clothing is provided to the victim if necessary.
    - all victim cases are profiled and selected victims are given opportunity to have input in decisions on diversions, dismissals, and plea bargains.
    - all victims are allowed opportunity to have input on continuances and sentencing.
    - victims are provided with information on what is expected of them in the criminal justice process at each stage of the proceedings.
    - a safe place is provided for victims and witnesses separate from the accused and defense witnesses.
    - information given to victim about witness fees.
    - a call-in system is in place.

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### *Basic*

[continued]

- All services should be accessible to the hearing impaired, the seeing impaired, other people with disabilities, and those populations whose first language is not English.

### *Good:*

- All services described above, enhanced by at least 5 of the following services:
  - in priority cases victim and witnesses are given up to date information by telephone where possible.
  - victims and witnesses are provided with counseling as necessary.
  - actual transportation is provided for sensorially or physically disabled, the elderly, and the infirm.
  - restitution requests are made routinely by the prosecutor.
  - all victims are provided assistance in preparing a victim impact statement for use at plea bargains and at sentencing.
  - victims are provided with oral and written information on what is expected of them in the criminal justice process at each stage of the proceedings. Rehearsals and court-room walk-throughs are available for priority victims and all child witnesses.
  - staff and volunteers are available to "call off" victims and witnesses and in off hours, a recorded on-call system is in place.

### *Very Good:*

- All services described above plus 7 of the following:
  - case status information is provided by telephone and mail in all cases.
  - transportation or reimbursement for mileage and parking is provided in all cases.
  - restitution requests are based on interviews with, and receipts from, victims.
  - victims selected from "profiles" are provided with opportunities to have input on bail and charging decisions. (Profiling is done to avoid endangering certain types of victims such as those who are victim of drug-related crimes, partner abuse, elderly abuse, or child abuse.)
  - all victims are provided opportunities to allocute at plea bargains or sentences if they so desire.
  - Rehearsals and court-room walk-throughs are available to all victims.
  - special waiting rooms are provided for victims and witnesses away from the accused and defense witnesses.
  - information is given about witness fees if they are available, and if so, fees are routinely disbursed. If not available, victims are provided vouchers to cover costs of meals that must be taken at the courthouse.
  - childcare is available at the courthouse for victims and witnesses or appropriate arrangements of childcare are made outside the courthouse.



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- Excellent:**
- All the above, plus special programs to address the needs of underserved victim population groups including attention to effective cross-cultural service delivery.
  - Special protection programs addressing safety and privacy for certain groups such as children, victims of gang violence, victims of hate violence and the like.

### c. Support services after case disposition - performance guidelines:

- Basic:**
- Program provides victim with information on all victim rights in the aftermath of case disposition on first contact after disposition.
  - The program provides at least 5 of the following services:
    - upon request, informing the victim about the offender's status or release following case disposition by letter.
    - enforcement of restitution orders through monitoring restitution payments.
    - informing the victim of their right to provide a victim impact statement at parole and notifying the victim when a parole hearing will take place.
    - provision of personal support and accompaniment during all appeals or motions for retrials.
    - social service referrals.
    - long term counseling referral.
    - provision of information concerning legal options.
- Good:**
- All services listed above, enhanced by at least 3 of the following:
    - upon request, informing the victim in critical cases about the offender's status by telephone.
    - revoking probation when restitution payments are not made.
    - assisting victims of their right to provide a victim impact statement at parole.
    - upon request, assistance with victim-offender intervention services.
    - provision of crisis and supportive counseling as necessary.
- Very Good:**
- All services listed above enhanced by the following
    - if restitution payments are not complete by the end of the probationary period, assisting the victim in enforcing a civil judgment.
    - accompanying the victim to parole hearings.
- Excellent:**
- All services listed above, plus special programs to address needs of underserved victim population groups including attention to effective cross-cultural service delivery.
  - Special protection programs addressing safety and privacy for certain groups such as victims of drug-related crime, victims of gang violence, victims of hate violence and the like.

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### f. Training services for allied professionals - performance guidelines

- Basic:**
- Conduct needs assessment of four of the following allied professional groups: law enforcement agencies, prosecutors, judges, corrections officers, substance abuse professionals, emergency room personnel, mental health professionals, medical and other hospital personnel, local educators, social service personnel, community organizers and the media to determine training needs.
  - Develop or acquire training materials or packages to provide training to selected four groups — materials should include information on victim issues, substance abuse, cross-cultural service delivery, and staff victimization.
  - Develop reciprocal training agreements with four target groups.
  - Train trainers or arrange for outside trainers to provide two days a year of training to each of the four target groups.
  - Provide follow-up educational materials to each of the four target groups.
- Good:**
- The above, but includes an additional three groups.
- Very Good:**
- All of the above, but includes an additional three groups.
- Excellent:**
- The above, plus organize and present at least one inter-disciplinary training conference per year for allied professionals and at least one training conference on special issues in victim services such as gang violence, victims of drug-related crime, cross-cultural service delivery, racial minority victims, victims of hate crimes and the like.

### g. Public education services - performance guidelines.

- Basic:**
- Develop and implement a public education plan that includes a minimum of three public education projects each year.
- Good:**
- The above, plus accomplish at least five of the following annually.
    - develop or acquire three new public service announcements for the radio and one new public service announcement for television each year.
    - organize an annual community event in conjunction with National Victim Rights Week.
    - solicit a proclamation for National Victim Rights Week from the governor of the state.
    - arrange for community education presentation to civic groups at least six times a year.
    - develop or acquire two new brochures each year to promote awareness of victim issues.
    - obtain coverage in the local print media for four news or feature stories each year.



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**Very Good:** • All of the above, but twice the number of activities.

**Excellent:** • All of the above, plus organize a public awareness committee that includes key media representatives who can assist with public education efforts. Also provide public education programs on underserved victim populations.

### h. Community crime, violence and substance abuse prevention services - performance guidelines

**Basic:** • Establish a crime, violence and substance abuse prevention committee with all agencies providing public education in the community to conduct an annual prevention campaign.

**Good:** • The above, enhanced by at least 3 of the following annually:

- Support the National Crime Prevention Coalition's new public education campaign by establishing a local tag line providing a state or local referral source of information and ways to develop community involvement.
- Set up or create a formal liaison with neighborhood watch groups.
- Arrange for the inclusion of victim assistance information in at least four prevention events. If there is no prevention education activities in the community, arrange for at least crime prevention education community-wide seminars each year.
- Develop or acquire a child safety educational program for 6 different grades from K-12 and arrange for teaching at least one class per grade during the school year.

**Very Good:** • All the above, but with twice the number of activities.

**Excellent:** • All the above, plus special crime, substance abuse and violence prevention projects targeted at high-risk, underserved populations.

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## 4. Training of service providers.

### a. Crisis counselor training - performance guidelines.

#### i. *Pre-service training*

##### **Basic:**

- 40 hours of training. Content to include:
  - trauma of victimization.
  - crisis and stress theory.
  - crisis intervention counseling.
  - values clarification.
  - use of local resources, services.
  - case management.
  - cross-cultural service delivery.
  - substance abuse treatment and prevention.
  - sexual assault victims.
  - spouse abuse victims.
  - survivors of homicide victims.
  - child victims.
  - traditionally underserved population groups such as racial minorities, gays and lesbians, victims of drug-related crime, differently-abled, homeless, chronically mentally ill and so forth.
  - advocacy.
  - personal safety training for counselors.
- Internship of at least 10 crisis calls.
- One police ride-a-long.

##### **Good:**

- All the above, enhanced by an additional 20 hours each of classroom training on two population groups underserved in this particular jurisdiction. For instance, 20 hours on victims of drug-related crime including appropriate referrals, visits to treatment centers, cross-cultural issues in dealing with drug-related crime, problems in compensation and such.

##### **Very Good:**

- The above, enhanced by 20 hours of classroom training on cross-cultural issues in this jurisdiction.
- an enhanced internship of 10 additional crisis calls.

##### **Excellent:**

- The above, enhanced by an additional 20 hours each of classroom training on two different kinds of victims — such as a intensive training on children or the elderly as victims.



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### *ii. Continuing education:*

- Basic:**
- 3 hour continuing education seminar each month.
  - 2 police ride-alongs a year.
- Good:**
- The above, plus an average of 12 hours additional continuing education during the year (may be through conferences, training seminars, or in-house training.)
- Very Good:**
- The above, plus attendance at a minimum of one national conference during each year.
- Excellent:**
- The above plus, once every 4 years, a 3-month internship/exchange at a relevant agency, e.g. domestic violence center, law enforcement, prosecution, and so on.

### **b. Counselor/general advocate training - performance guidelines.**

#### *i. Pre-service training*

- Basic:**
- 40 hours of training. Content to include:
    - trauma of victimization.
    - crisis and stress theory.
    - crisis intervention counseling.
    - values clarification.
    - use of local resources, services.
    - conflict management.
    - case management.
    - working with substance abusers.
    - supportive counseling.
    - advocacy.
    - negotiation.
    - working with other professionals and their agencies.
    - characteristics of certain victims, e.g. sexual assault, spouse abuse, survivors of homicide.
    - underserved populations, e.g., racial minorities, victims of drug-related crime, gays and lesbians, differently-abled, homeless.
    - personal safety training for counselor/advocates.
  - Intern with experienced staff on at least ten actual or simulated cases.
- Good:**
- All the above, enhanced by an additional 20 hours each of classroom training on two kinds of underserved victims.
- Very Good:**
- The above, enhanced by 20 hours of classroom training on cross-cultural service delivery.
  - an enhanced internship of 10 additional crisis calls.

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- Excellent:**
- The above, enhanced by an additional 20 hours each of classroom training on two different kinds of victims.

## *ii. Continuing education:*

- Basic:**
- 3 hour continuing education seminar each month.
  - 2 police ride-alongs a year.
- Good:**
- The above, plus an average of 12 hours additional continuing education during the year (may be through conferences, training seminars, or in-house training.).
- Very Good:**
- The above, plus attendance at a minimum of one national conference during each year.
- Excellent:**
- The above plus, once every 4 years, a 3-month internship/exchange at a relevant agency, e.g. domestic violence center, law enforcement, prosecution, and so on.

## **c. Criminal justice advocacy training - performance guidelines**

### *i. Pre-service training*

- Basic:**
- 40 hours of training. Content to include:
    - trauma of victimization;
    - crisis and stress theory;
    - crisis intervention counseling;
    - values clarification;
    - elements of criminal justice system;
    - who's who in the community and the system;
    - inter-agency cooperation;
    - community referrals;
    - public policy and legislation;
    - use of local resources, services;
    - substance abuse treatment;
    - problem solving, diplomacy; and case management.
    - characteristics of certain victims, e.g. sexual assault, spouse abuse, survivors of homicide
    - traditionally underserved population groups such as racial minorities, gays and lesbians, differently-abled, homeless, mentally ill, etc.;
    - personal safety training for advocates.
  - Work as intern with experienced staff supervising while monitoring an entire trial as well as work as a team with a senior partner on a minimum of ten actual or simulated cases.



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- Good:** • All the above, enhanced by an additional 20 hours each of classroom training on two different kinds of underserved populations.
- Very Good:** • The above, enhanced by 20 hours of classroom training on cross-cultural service delivery;  
• an enhanced internship of 10 additional crisis calls.
- Excellent:** • The above, enhanced by an additional 20 hours each of classroom training on two different kinds of victims.

### ii. Continuing education:

- Basic:** • 3 hour continuing education seminar each month  
• 2 police ride-alongs a year
- Good:** • The above, plus an average of 12 hours additional continuing education a year (may be through conferences, training seminars, or in-house training.)
- Very Good:** • The above, plus attendance at a minimum of one national conference during each year.
- Excellent:** • The above plus, once every four years, a three-month internship/exchange at a relevant agency, e.g. domestic violence center, law enforcement, prosecution, and so on.

### d. Trainers of other professionals training - performance guidelines:

#### i. Pre-service training

- Basic:** • Three years of experience as a victim service provider in all aspects of counseling and advocacy;  
• Forty hours of pre-service training in training techniques, public speaking, use of audio-visual aids, and workshop evaluation.  
• Two years of experience in workshop presentation and public speaking.
- Good:** • All the above enhanced by  
• Bachelor's degree or experience in field of an allied profession (e.g., law enforcement officer, social worker, nurse, substance abuse and so on).  
• an additional twenty hours training on training techniques
- Very Good:** • All the above enhanced by  
• An additional twenty hours of training
- Excellent:** • All the above enhanced by  
• One year of experience as a victim service provider with a particular victim population group.  
• Three years of experience in workshop presentation and public speaking.

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### *ii. Continuing education:*

- Basic:** • 3 hour continuing education seminar each month
- Good:** • The above, plus presenting a workshop or speech at least once a month.
- Very Good:** • The above, plus making presentations at a minimum of one national conference during each year.
- Excellent:** • The above, plus presenting at least twenty-four workshops or speeches throughout the year.

### **e. Public education service training - performance guidelines.**

#### *i. Pre-service training*

- Basic:** • One year of experience as a victim counselor/advocate.  
• Twenty hours training in public relations.  
• Twenty hours training in public speaking and writing.
- Good:** • All the above enhanced by  
• An additional year of experience as a victim counselor/advocate.  
• An additional twenty hours training in public relations.  
• An additional twenty hours training in public speaking and writing.
- Very Good:** • All the above enhanced by  
• An additional twenty hours training in public relations.  
• An additional twenty hours training in public speaking and writing.
- Excellent:** • All the above enhanced by  
• An additional twenty hours training in public relations.  
• An additional twenty hours training in public speaking and writing.

#### *ii. Continuing education:*

- Basic:** • Three-hour continuing education seminar each month
- Good:** • The above, plus presenting a speech or writing a media release, public service announcement, or editorial at least once a month.
- Very Good:** • The above, plus an additional twelve hours of training throughout the year.
- Excellent:** • The above, plus presenting or writing at least twenty-four speeches or public relations pieces throughout the year.



## f. Crime, violence and substance abuse prevention services training - performance guidelines.

### i. *Pre-service training*

- Basic:**
- 40 hours of training. Content to include:
    - crime and violence prevention
    - crisis and stress;
    - substance abuse prevention and intervention techniques;
    - programs and policies that have been successful in other communities;
    - victimization issues unique to this jurisdiction;
    - analysis of crime and substance abuse patterns in jurisdiction.
- Good:**
- All of the above, enhanced by
  - An additional twenty hours of pre-service training in crime prevention, substance abuse prevention and victim advocacy.
- Very Good:**
- All of the above enhanced by
  - Twenty more hours of training in speech and workshop presentations.
- Excellent:**
- All of the above enhanced by
  - An additional twenty hours of training in violence prevention curricula.

### ii. *Continuing education:*

- Basic:**
- 3 hour continuing education seminar each month
- Good:**
- The above, plus presenting a workshop or speech on crime prevention, violence prevention, or victim services at least once a month.
- Very Good:**
- The above, plus an additional twelve hours of training throughout the year.
- Excellent:**
- The above, plus attendance at a minimum of one national or regional training conference during the year.

## IV. Establish a Program Management System.

### A. Implementation Steps:

1. Develop short, succinct statement of agency purpose.
2. Develop organizational chart of flow of responsibility, accountability for agency action.
3. Define management responsibilities
  - a. Relationship of program manager to board or boss.
  - b. Duties of board or boss.
  - c. Duties of program manager.
  - d. Duties of other members of management team.

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- e. Relationship of managers to other staff members.
  - f. Relationship of managers to constituencies served.
  - 4. Develop policies and procedures that reflect agency purpose and agency plan.
    - a. Staff recruitment policies.
    - b. Staff performance policies and expectations.
    - c. Agency procedures.
    - d. Standard contracts.
    - e. Performance review procedures and policies.
    - f. Training review procedures and policies.
    - f. Policies affecting promotions, grievances, disciplinary actions, and dismissals.
    - g. Salary policies and scales.
    - h. Procurement policies.
    - i. Travel policies.
  - 5. Train management team in scope of responsibilities, agency history, agency plans, and management techniques (time management, personnel management, paper management, information management and so on).
- B. Management system - performance guidelines

## 1. Management plan

### a. Mission statement and goals

- Basic:** • The statement and goals are well defined and understood by the manager of the organization;
- Good:** • The above, but the statement and goals are in writing and are understood by the staff and the supervisor/board;
- Very Good:** • The above, but the statement and goals are incorporated into an action plan;
- Excellent:** • The above but the action plan has been developed in conjunction with the staff and the supervisor/board, and is understood by both entities.

### b. Organizational structure

- Basic:** • The duties of program actors are well defined and understood by the actors and the manager;
- Good:** • The above, but the duties are expressed as written job descriptions;
- Very Good:** • The above, plus an organizational flow chart exists and is followed, and job descriptions are accompanied by written contracts where appropriate;
- Excellent:** • The above, plus the structure is contributed to and understood by manager, staff, and supervisor/board.

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## c. Policies and procedures

- Basic:** • The policies are set by the supervisor/board and are known by the manager;
- Good:** • The above, plus the guidelines have been expressed as written procedures;
- Very Good:** • The above, plus the procedures are regularly reviewed and revised;
- Excellent:** • The above, plus policies and procedures are contributed to and understood by manager, staff, and supervisor/board.

## d. Written organizational policies.

This addresses the types of organizational policies that are in writing. Ideally, all policies should be documented in writing and revised regularly. If all the policies below are in writing, it is excellent.

- Personnel policies
- Travel and procurement policies
- Affirmative action or equal opportunity policies
- Ethical code

## 2. Communication system

### a. Communication between supervisor/board-president and the program manager.

This addresses the method and frequency of communication.

- Basic:** • Weekly communication between the two actors;
- Good:** • The above, plus the manager provides written progress reports monthly to the boss/board president;
- Very Good:** • The above, plus the two actors meet monthly to discuss program progress;
- Excellent:** • The above plus all important issues in communication are documented in writing.

### b. Communication between the program manager and staff. This address the method and frequency of communication.

- Basic:** • Manager or delegate holds at least bi-weekly staff meetings.
- Good:** • The above, plus manager or delegate meets with individual staff members on a regular basis.
- Very Good:** • The above, plus the manager or delegate is easily accessible at all times—at least by telephone.
- Excellent:** • The above, plus manager or delegate provides informal discussion time for staff to share information.



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## 3. Motivation system

### a. Reviews of manager by supervisor/board president.

- Basic:** • Annual written performance evaluations are given to the manager.
- Good:** • The above, plus manager is given performance objectives and incentives, should she or he achieve them, or immediate warnings, if she or he falls short;
- Very Good:** • The above, plus manager receives public recognition for superior work; admonishments are provided confidentially
- Excellent:** • The above, plus the manager assists in designing her own incentive system (within the budget) and own disciplinary system.

### b. Reviews of staff by manager or delegate.

- Basic:** • Semi-annual written performance evaluations are given to the each staff member.
- Good:** • The above, plus staff members are given performance objectives and incentives, should they achieve them, or immediate warnings, if they falls short;
- Very Good:** • The above, plus staff members receives public recognition for superior work; admonishments are provided confidentially
- Excellent:** • The above, plus the staff members assist in designing their own incentive systems (within the budget) and own disciplinary systems.

### c. Training and development system

- Basic:** • The agency is committed to on-going staff development and has it within its action plan.
- Good:** • The agency includes a travel and training budget for its staff in its annual budget to support on-going staff development.
- Very Good:** • The staff is required to participate in continuing education programs and a standard number of training hours is required per year.
- Excellent:** • Improvement of knowledge and skill is monitored through performance reviews.

# NATIONAL SYMPOSIUM ON FEDERAL CRIME VICTIMS

## d. Benefits of employment

- Basic:** • Salaries are comparable to other jobs requiring the similar backgrounds and time commitments; and a fringe benefit package is provided that includes basic health insurance, 10 days of vacation, 10 days of vacation, and customary holidays.
- Good:** • As above, but fringe benefits include expanded health benefits such as a dental or eye care plan, disability insurance, and increasing vacation or sick leave as staff seniority increases.
- Very Good:** • As above, but salary increases are based on merit and cost of living considerations and fringe benefits should include a pension or retirement plan.
- Excellent:** • As above, except the fringe benefit plan includes a cafeteria plan of benefits at a minimum of 20% of salary.

## e. Organizational stress reduction plan.

- Basic:** • Stress management is considered an important part of the staff development programs, and materials are provided to the staff on methods of stress management.
- Good:** • Opportunities for exercise and participation in health programs are available to staff.
- Very Good:** • The organization encourages service providers to participate in counseling programs and provides mental health days when appropriate.
- Excellent:** • The organization has a written stress management plan that is implemented.

## 4. Volunteer management plan.

### a. Volunteer involvement.

- Basic:** • The organization maintains a volunteer program and has a written volunteer management plan.
- Good:** • The above, plus the volunteer program contributes hours equivalent to 25% of overall staff time.
- Very Good:** • The above, plus the volunteer program contributes hours equivalent to 50% of overall staff time.
- Excellent:** • The above, plus the volunteer program contributes at least 25% of its hours for "professional" services.



## NATIONAL SYMPOSIUM ON FEDERAL CRIME VICTIMS

### b. Volunteer integration.

- Basic:** • Volunteers have employment contracts and duties similar to paid staff's.
- Good:** • The above, plus volunteers and paid staff routinely interact.
- Very Good:** • The above, plus volunteers are actively recognized by paid staff for their contributions.
- Excellent:** • The above, plus volunteers have the same access to information, training, and opportunities as paid staff.

### c. Volunteer training and development

- Basic:** • An orientation training program is provided to all volunteers prior to their serving the organization.  
• Monthly in-service training sessions are also presented.
- Good:** • The above, plus there are several different training programs that provide the background and skills for specialized jobs within the organization.
- Very Good:** • The organization maintains a training budget for volunteers so that there is support for them to attend outside training seminars or conferences.
- Excellent:** • The organization regularly sends volunteers to regional and national training conferences.

### d. Volunteer recruitment.

- Basic:** • The organization has at least one annual recruitment drive each year.
- Good:** • The annual recruitment drive is accompanied by media coverage and outreach to civic groups, churches, educational organizations and the like.
- Very Good:** • The above, and the organization actively recruits interns from high schools and colleges.
- Excellent:** • The above and the organization has a minimum of two recruitment drives throughout the year.



# NATIONAL SYMPOSIUM ON FEDERAL CRIME VICTIMS

## e. Volunteer motivation

- Basic:** • The organization has an annual recognition day for volunteers and gives out awards, certificates, pins or the like as acknowledgment of their effort.
- Good:** • The above, plus the organization promotes its volunteer program through media events on a regular basis.
- Very Good:** • The above, plus the organization has additional methods of recognizing individual volunteers and uses them on a regular basis.
- Excellent:** • The above, plus the organization does a regular analysis of its volunteers and selects tailor made methods of acknowledging efforts of each.

## 5. Financial management plan

The financial management plan may not be applicable to some programs if they are located in a state or county agency. On the other hand, it is recommended that programs are aware of their budgets and monitor their expenses even if they do not have control over final appropriations or expenditures.

## a. Budget management

- Basic:** • Revenues and Expenditures are forecast annually by source and cost categories;
- when revenues are on target, expenditures are within 10% of category projections.
  - The organization has an annual audit of program financial status
- Good:** • The above, plus the budget is monitored quarterly for variances.
- Very Good:** • The above, plus the budget is monitored monthly for variance.
- Excellent:** • The above, except costs are within 5% of projections by category.

## b. Resource development

- Basic:** • The organization has a short and long-term development plan. Non-profit and other independent agencies are encouraged to have multiple sources of funding. For some state or local programs this may also be advisable. However, some programs are solely funded by state or local funds which are secure and hence do not have to worry about funding source issues.
- Good:** • The above, plus the agency has a secure funding base covering at least 75% of its annual maintenance budget.
- Very Good:** • The above, plus the agency has an annual fundraising plan, including an "innovation" budget.

# NATIONAL SYMPOSIUM ON FEDERAL CRIME VICTIMS

- Excellent:**
- The above, plus the agency has at least 85% of its annual maintenance budget secure.

## C. Program manager training.

### 1. Pre-service training or experience

- Basic:**
- A minimum of two years experience in supervision, victim services, or a bachelors degree.
  - Completion of training requirements of victim counselors and advocates or equivalent experience.
  - Forty-hour of pre-service training in management techniques, supervision, and community relations.
- Good:**
- The above, but two years experience in either victim services or supervision and a bachelors degree.
  - An additional forty hours of training in management techniques, supervision, and community relations.
- Very Good:**
- The above, but a minimum of two years of experience in supervision and two years experience in victim services experience.
  - And an additional forty hours of training in management techniques, supervision, and community relations.
- Excellent:**
- The above, plus an additional forty hours of leadership training.

### 2. Continuing education.

- Basic:**
- 3 hour continuing education seminar each month
- Good:**
- The above, plus an average of 12 hours additional continuing education during the year (may be through conferences, training seminars, or in-house training.)
- Very Good:**
- The above, plus attendance at a minimum of one national conference during each year.
- Excellent:**
- The above plus, once every 4 years, additional college level education equivalent to 1 semester of work on a topic relevant to management, or experience in a job exchange program at the management level.

## V. Evaluation Process

### A. Implementation Steps

1. Obtain baseline data on victim needs, existing services, public awareness of victim issues,

## NATIONAL SYMPOSIUM ON FEDERAL CRIME VICTIMS

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inter-agency cooperation, and training needs.

2. Clearly establish goals of service and performance measures for each goal the program seeks to accomplish.
3. Performance measures should be defined in quantifiable terms or according to tested and understandable questions.
4. Well defined procedures, standards, guidelines for accountability, and documentation of case management should be established.
5. Identify areas for which evaluation and monitoring are desired.
6. Establish an evaluation budget.
7. Establish a timetable for planning the evaluation, a data collection period, and analysis of data.
8. Establish a method of feedback by which evaluation results may be reviewed and modification of program components can be implemented.
9. Establish types of evaluation that are desired. Consider the following options:
  - a. Effectiveness of services
    - i. victim/client satisfaction with services.
    - ii. do services accomplish goals they are designed to, i.e. if assistance with victim compensation forms is an offered service in order that victims can receive victim compensation when they are eligible for it, is victim compensation being awarded when victims are eligible to receive it; if assistance with restitution is being offered, is restitution routinely requested, ordered and collected?
    - iii. are the service providers adequately trained?
    - iv. are the service providers regularly reviewed and monitored in terms of their jobs and their training levels?
    - v. is the community aware of victim issues and aware of services offered?
    - vi. are the services cost effective for criminal justice agencies, medical personnel, mental health professionals, social service personnel, and the community at large?
    - vii. is the criminal justice system aware of victim issues, aware of services offered, and satisfied with service?
    - viii. are victim/witnesses reporting more as a result of more effective treatment of victims?
    - ix. are victim/witnesses more cooperative with investigation and prosecution as a result of more effective treatment of victims/
    - x. are victim/witnesses participating more in criminal justice proceedings?
  - b. Efficiency of service system
    - i. are the services offered being delivered?
    - ii. are services being delivered in a timely manner?



# NATIONAL SYMPOSIUM ON FEDERAL CRIME VICTIMS

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- iii. if the service is a referral service, is monitoring taking place to make sure that the victims receive service from the referral source?
- iv. is there a feedback system such that:
  - if services are not being delivered or are being delivered ineffectively that there can be modification in the service system?
  - if services are delivered efficiently and effectively there can be a reinforcement of personnel morale and agency excellence?

## B. Performance Guidelines

### 1. Program evaluation or assessment integration.

#### a. Program evaluation plan

- Basic:** • Goals and objectives of the evaluation plan are well understood.
- Good:** • The above, and the evaluation plan is in writing.
- Very Good:** • The above, and the evaluation plan has an operational budget.
- Excellent:** • The above, and the importance of the plan and its implementation is accepted by the board/supervisor, the organization and the staff.

#### b. Evaluation and assessment implementation.

- Basic:** • Organizational action plan includes time allocation for evaluation.
- Good:** • Adequate resources are given to evaluators.
- Very Good:** • Written reports are developed as a results of the evaluation.
- Excellent:** • Evaluation is used to provide feedback and to suggest modifications when necessary to the agency.

### 2. Types of program evaluation or assessment.

#### a. Case management

- Basic:** • A "Management Information System" (MIS) is in place.
- Good:** • The above, plus MIS is used to aggregate data on number types of cases, and number and types of services provided.
- Very Good:** • The above, plus MIS is used to modify the emphasis on service based on client needs and case data.
- Excellent:** • The above, plus MIS is used to give staff feedback on service workloads.

## NATIONAL SYMPOSIUM ON FEDERAL CRIME VICTIMS

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### b. Service outcome measures.

- Basic:** • Client satisfaction surveys are used to monitor service quality.
- Good:** • The above, plus skills of service staff are regularly "tested" to assure use of current knowledge and appropriate interventions.
- Very Good:** • The above, plus cost-effectiveness measures are analyzed annually.
- Excellent:** • The above, plus an outside "outcome" evaluation is conducted annually.

### c. General program assessment.

- Basic:** • The case management system is reviewed annually to identify gaps in service and problems in service delivery.
- Good:** • The above, plus a full assessment of the program is administered by staff based on generic performance guidelines and appropriate measures.
- Very Good:** • The above, plus an outside observer annually assesses the program on the same measures and with an open-ended interview with the key actors.
- Excellent:** • The above, plus an outside evaluation is conducted on same and other performance measures.

# YOUR BEST

Crime witness/victims  
should be treated  
as delicately as  
inanimate evidence

# EVIDENCE

**L**aw enforcement first began to receive training on the sensitive treatment of victims and crime witnesses in the mid to late 1970s.

The recurring theme and underlying message delivered by those early trainers was simple: Police officers should not treat victims and witnesses like pieces of evidence. They taught that the victim or witness is first and foremost a "person," a unique individual who needs to be approached and dealt with as such, not impersonally as a piece of evidence.

Robert P. Owens, then Chief of Police in Oxnard, Calif., told the President's Task Force on Victims of Crime, "For too long we have viewed the victim as evidentiary baggage to be carried to court along with blood samples and latent fingerprints. It is about time that we as police begin to view crime victims as our clients, as the aggrieved party in need of representation, reparation, and recognition."

This "early" message helped officers recognize that their actions and their communications with victims and witnesses were important, and that inappropriate communications could result in the victim or witness suffering a "second injury."

Unfortunately, what may have been lost in this early training message was the fact that the victim or witness *is* evidence—your best evidence. If approached properly with the right communication techniques, if provided with appropriate information and referral services, that is exactly what they will be.

Today, more than ever before, law enforcement training academies include training on effectively dealing with victims and witnesses of crime. Why do they do it? With everything that an officer, agent or investigator needs to know, why spend valuable training hours talking about how to successfully interact with victims and witnesses? Some would argue that civil litigation against departments has led to victim/witness training. Others acknowledge that such training is often mandated by legislation. But there is a third, even more important reason: Proper assistance of victims and witnesses helps us to close cases quickly, efficiently, humanely and professionally.

#### Psychological First Aid

Law enforcement officers and investigators get information because people talk to us. We need the complete cooperation of our victims and witnesses to get accurate information and prove our case in court. To do this, emphasis

ROBERT C. WELLS

# HANDLING SURVIVORS

While waiting for an accident victim's recovery, family and friends are in the midst of one of the most difficult, stressful periods of their lives. How they subsequently handle their grief depends in part on how they were treated by law enforcement and/or rescue personnel at the scene of the recovery. The quality of that contact has a great impact on the survivors' grief process.

Some people are more understanding than others concerning the needs of surviving family and friends during a rescue or recovery operation. Some of them include a group that has come together to form Compassionate Friends, a national support group of parents who have lost children through accident or illness.

Carol Dunn's three-year-old son drowned in a small lake in 1972. After recovering from her own tragedy, she now represents Compassionate Friends and counsels numerous families following the deaths of their children. From this experience she's learned what survivors need to get through this kind of trauma, and has advice for people who work rescue and recovery operations.

In a quiet voice, she outlines survivor needs by reminding rescuers, "This is the most traumatic shock these people will ever have. Try to be as gentle as you can." She lists a number of considerations to remember when working a recovery:

- Keep survivors informed at all times.
- Never refer to the victim as a body.
- This person, she reminds rescuers, is important to the waiting family. Try to learn the name and refer to the victim

by name.

- When survivors ask questions, make clear statements and answer questions honestly. Families feel betrayed when they learn details from the media.
- When informing survivors of a death, don't be in a rush. Be simple and direct. Don't use terms such as "expired," "passed away," "lost." "Don't say you know how they feel," she implores, "unless you really do."
- Under no circumstances blame the victim. Survivors will have to deal with blame later, she says.

People respond in a variety of ways to news of a sudden death. Some deny it, simply refusing to believe the news. Others scream, some seemingly out of control. Some want to throw themselves on the body. These are all normal reactions, Dunn says, and survivors should not be restrained.

Occasionally when in shock, people deny reality. These people show little response, and may just sit and stare, unable to answer complex questions.

"Keep your questions simple," she advises. "Make simple suggestions. Put a coat around them. Give them something warm to drink." A trace of a smile flickers across her face. "But don't fill the cup, they'll probably spill it." Serious again, she says rescuers should gently reinforce reality by saying, "I'm sorry, this is so sad."

Typical mechanical responses to the news are anger or tears. If a person screams or curses, says Dunn, "let him get it out. Your concern should be only to protect the griever from himself or to protect spectators from an angry griever."

Another common reaction is seen in

people who, after hearing the news, busy themselves by organizing things or straightening up. They are delaying acceptance of reality. It is only when tears come that they finally acknowledge the truth. The sooner tears come, the sooner grief begins. As a helping person, Dunn says, "you should give the griever permission to cry."

Dunn also believes it is important that primary grievers view the body when it's recovered. Rescuers who have recovered bodies that have been in the water any length of time strongly disagree with this, but she insists when the body is seen, resolution can begin. If it's not seen, the grievers' recovery may take years.

"Explain what has happened and what condition the body is in, so they know what to expect," she says, adding, "If you are with the family, show your acceptance of the body, don't look disgusted by it."

People facing the sudden death of a loved one are usually not able to follow complicated thoughts, and later will remember little of what's been said to them. Dunn asks that rescue workers give survivors their names and a place where they can later be reached. "They'll want to ask questions to clarify what they don't understand. They need these answers to resolve their grief."

"The helping person has needs, too." She has advice for them.

- Don't be afraid to show tears. In addition to helping you, it reassures grievers their feelings are justified.
- Find someone to talk to later about what you experienced.
- Be kind and gentle to yourself.

—Barbara Null

needs to be placed on providing "Psychological First Aid" to victims and witnesses. Successfully administered, psychological first aid returns some sense of emotional control and order to a victim in crisis. The way you do that is by focusing first on the victims or

witnesses and by attending first to their needs. Just as it is important to apply appropriate first aid techniques to an open wound following a shooting, for many victims it is equally important to apply psychological first aid to the emotional wounds they have just received.

By using psychological first aid, we can remove emotional roadblocks that separate us from the information that we need. The result is the best available information obtained in a timely manner. By properly applying these tech-

(Continued on Page 63)

## Best Evidence

(Continued from page 48)

niques, your victim or witness becomes stronger evidence.

When victims call law enforcement, they are upset: they often don't know what to expect from the police or the rest of the criminal justice system. The crime that they've experienced has often resulted in a crisis reaction. It is necessary to provide emotional stabilization in order to meet one of your most important goals: obtaining accurate information.

There are some simple and quick methods for providing psychological first aid to victims and witnesses. These methods are not only considerate of the victims and their needs, and secondly, considerate of your own needs—meaning but they fit into standard police operations. One such method is the You/We/I approach.

*Many crime victims and witnesses are in a state of crisis. The emotions victims/witnesses feel can serve as roadblocks between you and the information you need. You must remove these emotional roadblocks to get at the information.*

The psychological first aid concept and its importance both to law enforcement and to victims came as a result of pioneering research conducted by psychologist Morton Bard and psychiatrist Martin Symonds, former police officers working with the NYPD. The President's Task Force on Victims of Crime, in issuing its final

report, recommended that officers receive training in the use of such techniques. Such training has since been endorsed by such national organizations as the International Association of Chiefs of Police (IACP), National Sheriff's Association, National Organization of Black Law Enforcement Executives (NOBLE) and the National Organization of Victim Assistance. In addition, such training is now required by those receiving basic training at the Federal Law Enforcement Training Center in Glynco, Ga.

Psychological first aid stems from the simple understanding that many crime victims and witnesses are in a state of crisis as a result of the act committed against them. The emotions they feel can serve as roadblocks between you and the information you need. You must remove these emotional roadblocks to get at the information. The You/We/I technique, developed originally by Jim Ahrens, a police trainer from Fairfax, Va., can help you to do just that.

### The "You" Stage

Your focus should first be on your victim or witness. Always begin by asking the obvious: "Are you OK?" Really listen to the answer. As a crisis responder, you have to deal with what's there. By listening to the victim and witness, you will learn their perspective of the event.

Let them vent their feelings. If you don't, these feelings can create barriers between you and the accurate information that you need to obtain.

Next, you validate these feelings or emotions with statements like, "You have every right to feel like that." If the victim continues to express fear, your statement might be "You don't have to be afraid anymore, that's why we're here."

To be effective in this situation, you must respond to the situation and the victim or witness in terms of their perceptions. As a first responder, you make a major mistake when you show haste; it's often perceived by the victim or wit-



ness as a lack of interest or concern. When you encounter a victim or witness soon after a crime has occurred they want to (in fact, emotionally they may need to) perceive one thing: that you care.

For most victims and witnesses the simple act of showing concern, reassuring them of their safety, letting them vent their feelings, and validating the feelings that they vent, is enough to move them to the second stage, "We".

### The "We" Stage

Move quickly to "We" with a statement like "I want you to understand what we are doing." Starting again with "you" further emphasizes the importance you place on the victim or witness. The message of the "We" stage is simple: The victim or witness and the officer or investigator are in this together. You should spend a short period of time helping the victim prepare for what is coming next. Now move to "I," what you as a representative of law enforcement need.

### The "I" Stage

Start again with "you," with a statement like, "Now, if you feel up to it, I need a description." You may want to follow with a question like, "I am going to be taking a report so I'll be writing down what you say. OK?" Engaging the victim in a process that requires that they answer simple questions helps them regain a sense of control that they may have lost as a result of their victimization.

If victims still want to talk rather than give you a description, be honest, tell them your time frames. Don't be afraid to suggest that they move on. Be sure, however, to let them know that you will be happy to discuss their problem after you get the description. If the victims pause in their words — give them a chance — don't rush them — use positive reinforcement. You don't want to destroy the original intake of information. You are after the best available evidence and when you rush a victim or witness in crisis, *You may destroy evidence.*

### After You Get a Description

Explain that you need to get the description out to other officers. Ask permission to leave temporarily in order to do so. Again, you are giving the victim a choice and helping to return control to him. In some cases the victim or witness will need further assistance to start regaining control. You can help him to define the principal problem. Ask, "What is the one thing you need, right now?"

You will probably get a quick response such as: "What about my kids? Are they all right?" "My jeans are ripped. I want to change clothes."

If at this stage you take care of a little problem—you help your victim or witness regain control—you build rapport. You will also increase your chances of getting accurate information.

Return to the victim after putting out the description. Focus again on their immediate needs. Give him an idea of what to expect from the investigation. Consider referral to a victim assistance program in your community. Remember, as a first responder, you only have a short time with the victim; and often you are turning the victim loose on his own to go right back into crisis if you don't refer him to victim services. Think of it this way: You have started to build a strong case since you stabilized the victim. You want your victim even stronger emotionally when it comes time to testify.

### Chain of Custody

Follow-up information and proper referral help to ensure that the victim, your best evidence, gains emotional strength and remains strong. If you recovered property such as a television set from a burglary, you wouldn't carelessly handle or store this property. An unrecorded or improper chain of custody could result in a loss of your case. Property needs to be properly maintained and preserved.


The same theory applies to victims and witnesses. If you have intervened properly, you have set the stage for the effective emotional recovery of your

victim or witness. What you need to do now is ensure that the recovery you helped the victim begin is maintained. Make certain victims and witnesses receive proper information and referral. Leaving victims or witnesses without information or without proper referral is like leaving that television in the back of a truck exposed to the elements. Without proper follow-up, many victims and witnesses will deteriorate emotionally and prove incapable of handling the stress of testifying in court. The result can be the failure to obtain a conviction. All the hard work of your investigation and case preparation goes down the drain.

Fortunately, most of you can prevent this from happening. With a television set, you hand it over to the evidence custodian who ensures that it is properly maintained and preserved. Be sure to do the same with your victim or your witness. Be sure to refer them to victim advocacy programs in your community. A good victim advocate will serve same basic functions as a good evidence custodian. They will help to properly maintain and preserve the emotional well-being of your victim or witness. An advocate helps by providing information on programs such as crimes compensation and by assisting the victim to become an active participant in the court-case process. The victim is often allowed input on matters such as plea negotiation or restitution. They are instructed as to the proper preparation of victim impact statements. They are given an idea about what it is like to testify in court. And because of this assistance, they are emotionally stronger and better able to accurately recall facts when finally called upon to testify.

It all boils down to this: When you help your victims and your witnesses, you help yourself. You help ensure you get good, accurate information; and you help to preserve that information and the behavioral integrity of your best evidence, your victim or your witness. ■

Robert C. Wells is a victim/witness coordinator at the Federal Law Enforcement Training Center in Glynn, Ga.

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International Parental Kidnapping Crime Act of 1993

On December 2, 1993 the International Parental Kidnapping Act of 1993 (Public Law 103-173, 107 Stat. 1998) was enacted into law. This legislation adds a new 18 U.S.C. 1204 which makes it an offense to remove a child from the United States or retain a child (who had been in the United States) outside the United States with intent to obstruct the lawful exercise of parental rights. Such an offense is punishable by a fine under title 18, imprisonment for not more than three years, or both.


The term "child" is defined as a person who has not attained the age of 16 years. The term "parental rights" with respect to a child means the right to physical custody of the child whether joint or sole, and includes visitation rights. Such parental rights may arise by operation of law, court order, or by legally binding agreement of both parties.

The statute expressly provides for the following affirmative defenses: (1) the defendant acted within the provisions of a valid court order granting legal custody or visitation rights and such order was obtained pursuant to the Uniform Child Custody Jurisdiction Act, (2) the defendant was fleeing an incidence or pattern of domestic violence, (3) the defendant had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child due to circumstances beyond the defendant's control, and the defendant notified or made reasonable attempts to notify the other parent or lawful custodian within 24 hours after the visitation expired and returned the child as soon as possible.

The statute contains a Sense of the Congress that inasmuch as the procedures set forth in the 1980 Hague Convention on the Civil Aspects of International Parental Abduction has resulted in the return of many children, those procedures, in circumstances where they are applicable, should be the option of first choice for a parent who seeks the return who has been removed from the parent.

The 1980 Hague Convention on the Civil Aspects of International Child Abduction provides a left-behind parent with certain civil remedies to effect the return of the child to the country of habitual residence. Our obligations under the Convention are handled by the Department of State.

Currently, the following 45 countries are party to the Convention: Argentina, Australia, Austria, The Bahamas, Belize, Bosnia-Herzegovnia, Burkina Faso, Canada, Chile, Columbia, Croatia, Cyprus, Denmark, Ecuador, Finland, France, Germany, Great Britian, Greece, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Luxembourg, Former Yugoslavia/Rep. of Macedonia, Mauritius, Mexico, Monaco, Netherlands, New Zealand, Norway, Panama, Poland, Portugal, Romania, Slovenia, Spain, St. Kitts/Nevis, Sweden, Switzerland, The United States, Venezuela, and Zimbabwe.

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**HAGUE CONVENTION OF 25 OCTOBER 1980 ON THE CIVIL  
ASPECTS OF INTERNATIONAL CHILD ABDUCTION**

Party Countries and Effective Dates with U.S.

**NOTE: Convention does not apply to abductions occurring prior to  
the effective date.**

ARGENTINA	1 JUNE 1991
AUSTRALIA	1 JULY 1988
AUSTRIA	1 OCTOBER 1988
BAHAMAS	1 JANUARY 1994
BELIZE	1 NOVEMBER 1989
BOSNIA & HERZ.	1 DECEMBER 1991
BURKINO FASO	1 NOVEMBER 1992
CANADA	1 JULY 1988
CHILE	1 JULY 1994
COLOMBIA	1 JUNE 1996
CROATIA	1 DECEMBER 1991
CYPRUS	1 MARCH 1995
DENMARK	1 JULY 1991
ECUADOR	1 APRIL 1992
FINLAND	1 AUGUST 1994
FRANCE	1 JULY 1988
GERMANY	1 DECEMBER 1990
GREECE	1 JUNE 1993
HONDURAS	1 JUNE 1994
HUNGARY	1 JULY 1988
ICELAND	1 DECEMBER 1996
IRELAND	1 OCTOBER 1991
ISRAEL	1 DECEMBER 1991
ITALY	1 MAY 1995
LUXEMBOURG	1 JULY 1988
FMR. YUGOSLAV REP. OF MACEDONIA	1 DECEMBER 1991
MAURITIUS	1 OCTOBER 1993
MEXICO	1 OCTOBER 1991
MONACO	1 JUNE 1993
NETHERLANDS	1 SEPTEMBER 1990
NEW ZEALAND	1 OCTOBER 1991
NORWAY	1 APRIL 1989
PANAMA	1 JUNE 1994
POLAND	1 NOVEMBER 1992
PORTUGAL	1 JULY 1988
ROMANIA	1 JUNE 1993
SLOVENIA	1 APRIL 1995
SPAIN	1 JULY 1988
ST. KITTS AND NEVIS	1 JUNE 1995
SWEDEN	1 JUNE 1989
SWITZERLAND	1 JULY 1988
UNITED KINGDOM	1 JULY 1988
VENEZUELA	1 JANUARY 1997
ZIMBABWE	1 AUGUST 1995

## **DEATH NOTIFICATION**

**A Seminar for Law Enforcement Professionals  
(Fifth Printing, 1996)**

**Janice H. Lord, ACSW-LMSW/LPC  
National Director, Victim Services**

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**Mothers Against Drunk Driving  
1-800-438-6233**

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## Beliefs Supporting Development of Protocol

### A. Factors Affecting Stress Reaction

- 1.
- 2.
- 3.
- 4.

### B. Survivor Needs During Death Notification

- 1.
- 2.
- 3.
- 4.

## Death Notification Procedure

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

7.

8.

9.

10.

#### WHAT NOT TO SAY

##### Discounting Statements:

I know how you feel.

Time heals all wounds.

You'll get over this.

You must go on with your life.

He didn't know what hit him.

You can always find someone worse off than yourself.

You must focus on your precious memories

It's better to have loved and lost than never to have loved at all.

##### Disempowering Statements:

You don't need to know that.

What you don't know won't hurt you.

I can't tell you that.

God Clichés:

It must have been his/her time.

Someday you'll understand why.

It was actually a blessing because \_\_\_\_\_

God must have needed her more than you did.

God never gives us more than we can handle.

Only the good die young.

Unhealthy Expectations:

You must be strong for your wife/ children/ parents.

You must get hold of yourself.

WHAT TO SAY

I'm so sorry.

It's harder than most people think.

Most people who have gone through this react similarly to what you are experiencing.

If I were in your situation, I'd feel very \_\_\_ too.

I'll check back with you tomorrow, see how you're doing and if there's anything more I can do for you.

11.

12.

13.

14.

15.

16.

17.

18.

19.



# THE **F**orum NEWSLETTER

Association for Death Education and Counseling

An International, Interdisciplinary Organization

ISSUE 5 VOLUME IXX  
NOVEMBER/DECEMBER 1993

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## The Value of Viewing in Grief Work Reconciliation: A Psychotherapist's Perspective

By Kelly Osmont, M.S.W., L.C.S.W.

During a workshop I listened to a funeral director discuss the value of viewing. To the surprise of many in the audience he spoke of allowing families to view bodies no matter how they looked, even when only bones and skin remained. He related that no matter how gruesome the remains were, the families were always thankful they had been given the opportunity to view. I believe his success rate was high, as does he, because he kept them informed (they maintained the control) each step of the way. He also made sure they were involved with the decisions pertaining to the public and/or private viewing.

Internally I was applauding, for I know the amount of grief work which has to be done by survivors when there has been a tragic death and they have not viewed the body. In my private practice, as a psychotherapist specializing in grief, my clients continue to remind me of the importance of viewing. For those who have viewed, or were with their loved one towards the end of a long illness, there is a knowing, an understanding others don't have. There may be moments when they want to believe it is otherwise, but they are able to bring themselves back to reality when they replay the final scene in their minds.

I have two suggestions for those who say the memory of their dead loved one is too painful. First, when they *do* remember and begin to have feelings surface, don't suppress them. That's what usually makes it painful. Second, to see memory as a gift, for having it can assist them in realizing again

why their life has turned upside down.

When I was a bereavement counselor for several funeral homes, I frequently heard funeral directors discuss the complexities of assisting family members in viewing the deceased. I learned the difficulties faced by funeral directors as they work with people who are distraught and uneducated about the therapeutic value of ritual.

I also facilitate community-wide grief support groups, where I continue to hear people discuss their regrets, months after the death, over not having seen their loved one for the last time. And, how they wish someone had educated them on the value of the process.

With the help of three women clients whose loved ones had died tragic deaths over the last two years, I tested my theory that "it is better later than never" to help make the deaths real. There seemed to be something missing in their movement towards healing. The causes of these deaths were: a drug overdose, a stab wound and drowning, and one person drowning himself. None of the women had viewed the remains. One was a bereaved parent and the



Continued on page 19

**ADEC**  
**Certification**  
Please see page 14  
for details.

## Value of Viewing

*Continued from page 1*

Other two were widows under the age of forty, both with young children at home.

### Photographs of the Deceased

I received permission from all three to assist them in locating photographs of the deceased, as well as use whatever I learned as a teaching tool for others. One had already obtained her husband's picture from the police. Another's photographs were located in the police evidence department of another county, and the third was at the local sheriff's office.

The personnel at these agencies were not accustomed to a counselor requesting pictures of a dead body in order to assist her client. The red tape I had to cut through was horrendous. With one client I was assisted by a family member who was a doctor. He was willing to go through the hundreds of photos taken at the scene of the death and the morgue. He selected five which were appropriate for viewing by the parents.

We agreed that I would show them the pictures during the counseling sessions in their on going therapy groups. Each client had been in a different group for over a year. The group setting was selected to provide them with the added comfort of others validating the pain of their loss. Each decided in advance on the date this would be done. I also suggested that each of the three clients bring a photo of her husband or child when they were alive. The group members were given this picture, while the client looked at those of the deceased. One client requested that group members not view the deceased.

I sat beside each client and, one by one, showed her the photos. I selected the least gruesome pictures first, as well as the ones that were least identifiable. Before showing each photo to the client, I described it in great detail. Then I held it in front of her, at least two to three feet away, which provided distance and more safety from any surprises. With each step, she had total control, choosing to continue, to hold the picture herself or to stop.

Each of the women had a variety of reactions in response to seeing the pictures, ranging from curiosity to rage to deep sorrow. It was as if they were being told for the first time about the death, and we were viewing their intense grief reactions encapsulated in a 20 to 30 minute time-span.

The only true distinctive difference between the reactions of the bereaved parent versus the two widows was when the parent viewed the back of her 17-year-old

son who had drowned himself, she instinctively cupped her arms as if she were holding him, her baby, and began to rock back and forth. I slowly and gently placed a pillow in her arms, and she continued rocking, moaning and sobbing as she held the pillow nest to her bosom. This was a year after her son had died.

All the members in the group were able to be loving and supportive. They honored the client's emotions and were available for hugs and words of encouragement. They provided the type of atmosphere I would want for anyone who was told of their loved one's death.

### Questionnaire Completed

Later, a questionnaire was completed by each of the three women. Based on their responses, the experience was successful. One widow whose husband had overdosed on drugs three years earlier had not had one happy memory of their life together before this time. Two days after this experience she began to remember several events with her husband which had been fun and loving times.

Another widow had been adamant in insisting that her husband's death two years before was a murder, not a suicide as his death certificate said. The picture posed some questions which allowed her to question the possibility of his not being murdered and to face the reality that he might have been depressed enough to complete a suicidal act. When she responded to the question of, "What differences has seeing the pictures made for you?", she wrote, "I've been able to make the closures that I needed to and also to face that fact that it could have been suicide."

Answering another question, "Was seeing your loved one's body in the picture worse or better than what you expected?", one woman said it well for all of them: "After the initial shock and pain, it was better. Before seeing the photos my imagination had been painting horror pictures. I was relieved to see him. I think, to hold him in my mind, to feel that he really was gone and get on with my grief." This client, for the first time since coming to the group, had stopped wearing an artificial smile and her sadness was showing in her eyes. The reality of his death had reached another level of awareness.

Another question I asked was what the police had told them about viewing the bodies, and their responses were all the same. . . "nothing". I asked what their funeral directors had told them about view-

ing. The bereaved mother said, "Not a thing. They didn't offer and we didn't ask." Another from one of the widows, "Nothing I can remember." She did say, "A friend viewed my husband and wasn't sure what he should tell me. He later told me he kind of regretted not encouraging me to."

All of the above might have been alleviated had the professionals (the police, hospital personnel, funeral directors, ministers) who worked with the families in the beginning had patiently educated the survivors about possible regrets in the future if they didn't see the bodies. Also, if they declined, better specific photographs could have been taken, with the survivors' permission, which they could have come back months or years later and seen.

Viewing is not for everyone, and no one should be forced to view a deceased loved one. Instead, each death needs to be looked at separately, each survivor's needs considered.

We need to remember families are making major decisions at a very stressful time and they are uneducated about the value of viewing. Every professional who works with the family during the time those crucial decisions are made has an obligation to educate families on the importance of seeing the deceased. It is especially important when it is the type of death which will be difficult for survivors to believe.

But, if the deceased was not seen, and a need for the reality of the death for the survivor is experienced by a therapist, healing work can be accomplished with the use of pictures. Their value is "better later than never."

## Seeking Study Participants

Laura Smart is seeking participants for a study of individuals or couples who experienced the death of an infant or the loss of a pregnancy prior to 1956. The semi-structured interview takes approximately 30 minutes on the telephone. Laura can be reached at Human and Family Resources, Northern Illinois University, DeKalb, IL 60115. Telephone (815) 753-6341. Bitnet: R20LSS1@NIU or collect at home (815) 756-5020.

## RESEARCH

# Open displays of grief help families cope

By LINDA CARROLL  
MEDICAL TRIBUNE NEWS SERVICE

Although the death of a parent is always devastating, the loss can be particularly destructive in loose-knit families whose members are always at odds, a new study shows.

Close families who were good at resolving conflict coped best with grief, according to an Australian study published this month in the *American Journal of Psychiatry*.

Compared to close-knit families, those with a high level of conflict and poor communication skills had more trouble adjusting to a loss and were more likely to suffer consequences such as depression, the researchers found.

The new study followed for 13 months 115 families who lost a parent to cancer. The families, which fell into five categories, were examined six weeks, six months and 13 months after the death of a parent.

"Most research on bereavement has focused on the individual experience," noted lead author Dr. David Kissane, a researcher in the department of psychological medicine at the Monash University Medical Center in Clayton, Victoria.

"There is, however, increasing realization that a person's reactions may be influenced markedly by his or her intimate group, most commonly the family," he said. "The death of one family member affects each other member as well as the family as a whole."

Families that coped well were those that were bound tightly together, according to Kissane.

Cohesiveness "appears to be the hallmark of the adaptive family, whose members are intimate with each other, share their distress and provide mutual support. Conflict is absent as members tolerate negative emotions, disclose their feelings honestly, and draw confidence from a belief in the family's closeness," he wrote.

Two types of families, in particular, had a particularly difficult time adjusting to their losses.

The two most dysfunctional types, which researchers labeled "hostile" and "sullen," made up 30 percent of these families at the start of the study; by the end they represented 15 percent.

Researchers found the "hostile" families riddled

with conflict. Family members also tended to be poorly organized, distant and poor at expressing their emotions, according to Kissane.

"These families do not plan activities carefully and are not punctual; structure and order are absent; argument destroys teamwork and inhibits any capacity for support," Kissane explained.

Children in these families also end up carrying an unfairly heavy load, as their relatives "find fault, blame, promote guilt, and refuse to speak to family members," Kissane wrote.

"Sullen" families were similar to "hostile" ones, according to the researchers, but typically had a dominant member who rigidly issues directions and sets rules.

In these families, discussion and expression of feelings are blocked and "disagreements remain unresolved, hovering just beneath the surface," Kissane observed.

Families of the "sullen" type experienced the most intense grief, according to Kissane.

In contrast, the tight-knit or "cohesive" families also experienced intense grief but were not damaged by it because they were able to talk with one another about their feelings, he said.

The two types of conflict-filled families are indeed at greater risk than those that deal with grief in a healthy way, a Baltimore expert agreed.

"They are more likely to turn to substance abuse or to fight with one another," said J. Sheppard Jeffreys, a grief psychologist and an instructor in psychiatry at the Johns Hopkins School of Medicine. "Sometimes they can't do their jobs. The kids act out in school."

Families with overly-strict boundaries tend to get in trouble, Jeffreys said.

"The sullen, uncommunicative family holds a conspiracy of silence. This is very negative, particularly for the children — they don't get to grieve. They are told not to talk to anyone," he said.

When treating these kinds of families, Jeffreys encourages open communication. "I try to get them to talk to each other, to share their feelings," he said.

"I tell them 'It's OK to cry. It's OK for you to cry in front of him. It's OK if the kids see you cry.'"

# Flaming wreck brings double sorrow to family

BY KATHY SANDERS AND MONICA STAVISKI  
Fort Worth Star-Telegram

A double tragedy rocked a Tarrant County family yesterday when a man burned to death in his wrecked car as horrified deputies stood by helplessly and the man's elderly father died of a heart attack on learning his son's apparent fate.

Dan C. Ingram, 44, of Bedford died in the

Dan Ingram died in a blazing car wreck.

pre-dawn fire in the 7100 block of Farm Road 1886, also known as Confederate Park Road.

The crash site is in northwest Tarrant County. Richland Hills police found Jess Ingram, 71, dead at home several hours later after officials called him seeking dental records to identify his son.

Tarrant County Sheriff's Commander James Skidmore said that one deputy, a patrol

trainee, tried in vain to rescue Dan Ingram from his overturned burning car. The deputy was beaten back by the flames that quickly engulfed the screaming man, Skidmore said.

"Having to stand by and see and listen to this man burn to death was a horrible thing," Skidmore said.

Several family members said they were upset over the way the Tarrant County medical examiner contacted Jess Ingram.

## Deaths

From Page 1

upset over the way the Tarrant County medical examiner contacted Jess Ingram.

"The medical examiner called him on the phone, and that was the terrible thing. It was too much. He's had heart trouble for 27 years. He had diabetes," said his wife, Rosa Lee, raising a trembling hand to her forehead. "The terrible thing is, they didn't know which one [son] it was. I didn't even know until I got home."

Someone in authority always notifies survivors in person after a death is confirmed, a medical examiner's official said. The phone call to Ingram was considered a request for information rather than a formal death notification, the official said.

Skidmore, a Sheriff's Department spokesman, said a passer-by called to report an overturned car about 2:30 a.m. A call from another passer-by reported that the overturned car was beginning to burn.

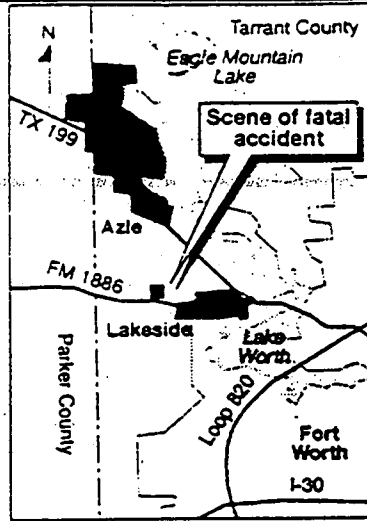
"The people driving by apparently thought there had been a wreck and the people had gotten out," Skidmore said. "We had no information about anyone still in the vehicle."

Two deputies arrived at 2:35 a.m.: Joel Edward Martz, 32, a jail deputy on loan to the patrol division; and patrol Deputy O.D. Cox. Martz had been training with Cox for two weeks, Skidmore said.

While Cox was calling for firefighters, Martz ran to the burning car.

"He heard a man's voice yelling, 'Help! Help! I'm burning up.' He ran around to the driver's side of the car, and he discovered a man desperately, frantically trying to get out of the driver's window," Skidmore said. "The driver's window was crushed from the wreck and he couldn't fit through it."

Fort Worth Star-Telegram, September 1, 1995



Fort Worth Star-Telegram / FRANK PONTARI

Martz raced to the other side of the car, screamed at the trapped man to cover his face and used his baton to shatter the passenger window. As flames licked at the man's feet, Martz reached into the car to grab him but couldn't reach him.

"He was never able to get hold of him. The flames were really getting up. Almost immediately, his training officer pulled him back, and they moved several feet back," Skidmore said.

Then the fuel lines and tank exploded, engulfing the car in flames.

"It was a total meltdown," Skidmore said.

Martz declined to be interviewed.

"Since he did not succeed in saving the man, he considers that a failure. . . . He does not want to talk publicly about it," Skidmore said.

Skidmore said Martz and Cox exceeded their responsibilities, risking their lives to try to save Ingram.

Though no witnesses had been found yesterday, Skidmore said officials believe that Ingram was driving west when he topped a hill, lost control of his car, overcorrected and ended upside down in the ditch.

In trying to identify the burned man, investigators found that the

1985 Dodge hatchback was registered to Dan Ingram. The only listing in the area is Jess Ingram of Richland Hills, and an investigator from the medical examiner's office called him hoping that he was related, sources said.

When the investigator told Jess Ingram about the wreck and the unidentified burn victim, Ingram said he would check on his son's whereabouts and the name of his dentist, the sources said.

However, Ingram didn't call back and no one answered a follow-up phone call to the house, so the investigator asked Richland Hills police to check. Officers found Ingram on the couch in his home at 11:30 a.m.; he had apparently suffered a heart attack. Ingram died at the scene, officials said.

At Jess Ingram's home late yesterday, relatives tearfully consoled one another. In one room, a young relative quietly strummed a guitar.

Dan Ingram's younger brother, Richard, said he was angry about the way his father learned of the tragedy.

"He [the medical examiner] said he needed dental records," Ingram said. "I think the ME didn't handle it properly."

On the front porch, Rosa Lee Ingram blinked back tears as she gazed at photos of her husband of nearly 47 years and their eldest son.

Jess Ingram was retired from General Dynamics and Dan Ingram worked in a machine shop. Richard Ingram recalled attending Diamond Hill High School in Fort Worth with his brother.

"We were 11 months apart," said Richard Ingram, of the Summerfields neighborhood of north Fort Worth. "He was just a hard-working guy."

Dan Ingram's sons, Bryan, 24, and Aaron, 21, said their father enjoyed being with people.

"He liked to play softball. He was athletic and extroverted. He had a lot of friends," Bryan Ingram said.



Jess Ingram died of a heart attack.



Dan Ingram died in a blazing car wreck.



## SAMPLE HAND-OUT FOR FAMILY OF HOMICIDE VICTIMS

The following information is provided to assist you in making arrangements. The exact order of events may vary.

### AUTOPSY

1. Your loved one has been taken to the County Medical Examiner's Office in \_\_\_\_\_(City)\_\_\_\_\_ (State)\_\_\_\_\_ for examination. This is required by law in cases of unexpected death.
2. Call the funeral home of your choice to inform them of the death and your desire to use their services.
3. Call the Medical Examiner's Office, \_\_\_\_\_(number)\_\_\_\_, to inform them of the funeral home you have chosen. The Medical Examiner may need further information from you.
4. The Medical Examiner's Office is open \_\_\_\_\_(time)\_\_\_\_\_ until \_\_\_\_\_(time)\_\_\_\_\_, Monday through Friday. Although the office is closed on Saturday, an attendant is normally on duty from \_\_\_\_\_(time)\_\_\_\_\_ until \_\_\_\_\_(time)\_\_\_\_\_.
5. The Medical Examiner will normally keep your loved one's body from 12 to 24 hours. (Optional) Under some circumstances, the Medical Examiner will allow the family to view the body before it is taken to the funeral home. If you desire to do this, call \_\_\_\_\_(number)\_\_\_\_. Ask the condition of the body, which will help you decide if you wish to view it in this state.
6. The Medical Examiner will call your funeral home to transport the body when the examination has been completed.
7. Your funeral home will make an appointment with you to come into their office to make funeral arrangements.

### CRASH REPORT

1. The investigating officer at the crash, \_\_\_\_\_(Name)\_\_\_\_, \_\_\_\_\_(Phone)\_\_\_\_, is preparing the crime report. If you wish, you may phone him/her with questions about the crime. You may obtain a copy of the report in 3 to 5 days at \_\_\_\_\_(Address)\_\_\_\_\_.
2. Fee for the report is \_\_\_\_\_.
3. If we can be of further service to you, please call the Police Department at \_\_\_\_\_(Phone)\_\_\_\_\_.

### FURTHER INFORMATION

1. If you are interested, you may obtain a copy of the offenders driving record by writing \_\_\_\_\_(Address)\_\_\_\_. Submit the offender's name, license number and date of birth (from the crime report) and enclose a fee of \_\_\_\_\_.
2. If you would like to contact a victim program, call:  
Victim Assistance \_\_\_\_\_ MADD \_\_\_\_\_

Following is a letter an officer sent a family after the trial of the offender who killed their daughter. It is an excellent example of compassion which deeply instilled in the family a respect for law enforcement. Such letters should be sent only after the case is out of the criminal justice system. Otherwise they can be used against the officer to show that he or she is not an unbiased witness.

Dear Mr. and Mrs. \_\_\_\_\_

Even as I write this letter, I see your daughter's face. I did not know Cheryl or get to know her. Yet, I have seen her a hundred times since the early hours of July 3. The visions of that night will never fade away. It was like a thousand other nights for me. I was working by myself, assigned a patrol squad on the schedule. The night had been uneventful, but busy. My tour of duty (7:00 pm to 3:00 am) was winding to a close and I was looking forward to the coming holiday with my wife, two sons, and a three-year-old daughter.

Just before midnight I stopped to buy a soda at the Open Pantry store. There, I took a call to investigate a personal injury crash in the 5900 block of South 27th Street. An ambulance had been sent. I swung the unmarked squad car onto 27th Street and headed south through heavy traffic. Several minutes later, the radio cracked again, "Squad 596, be advised second call. Fire Department and paramedics in route." 27th and Ramsey is several blocks from my own home and I worried that the crash might involve a neighbor, friend, or loved one. I tried to mentally prepare myself for the worst that could happen.

I arrived a few minutes later. The Fire Department and several other squad cars were already on the scene. As I stepped from my car I was relieved to see that the two vehicles were not familiar and didn't appear to be extensively damaged. But as I hurried across the intersection, I became aware of a body lying on the pavement. The silence was deafening.

The paramedics did not have to tell me that there was nothing they could do. I had seen it in their faces, the grief etched in their furrowed brows, the sadness in their hushed voices. I knelt down to examine Cheryl's injuries and looked into her face. She was, despite her injuries, a beautiful young woman. A woman who had everything to live for. Looking at Cheryl, I thought of my own daughter. Could this happen to her? Would she spend 19 years on this earth loving and being loved, only to be taken in an instant by the criminal negligence of a drunk stranger? You will never know the sadness I felt. Ten years of training and experience did not prepare me for the horrors of that morning.

So, it was again painful for me to read the article in the Tuesday, January 5 edition of the Journal. All the memories of that sad night came back again. The fact is, the boy who killed Cheryl was intoxicated that night, so intoxicated that he could not tell which direction he was driving. He just stood there and said, "Look at my father's new van."

His passenger, on the other hand, appeared completely sober. I did not smell any alcohol on her breath, her speech was normal, and, aside from her injuries, she appeared perfectly normal. She was able to give me an account of the crash and her actions. From her account, I was able to determine that the crash had occurred in the City of Greenfield. Therefore, they then took over the investigation. It appears to me from the Journal article that the driver and his family are still not accepting responsibility for this crash and are still trying to escape the consequences of his actions.

I cannot know the anguish and grief you have suffered since Cheryl's death. It was a tragic loss.

She did not, however, die completely in vain. She is still alive to me -- her voice speaking out, sending a clear message to all those who would drink and drive. Her face -- forever in my memory.

Respectfully yours,

Sergeant \_\_\_\_\_

Following is a letter written by a mother whose son was killed in a crash. On the first year anniversary after her son's death, she wrote this letter to the officer who was with her when she learned that her child was dead.

Dear Officer \_\_\_\_\_,

A year ago today, you and I stood in a snowy field as you informed me that my son, Jim, was dead. I will never forget that day as I'm sure you won't either. I have never thanked you for the care and the compassion you showed me that day.

I will never forget the look on your face as you struggled to tell me that Jim was dead. I realized then that you, too, were a victim of someone's irresponsibility.

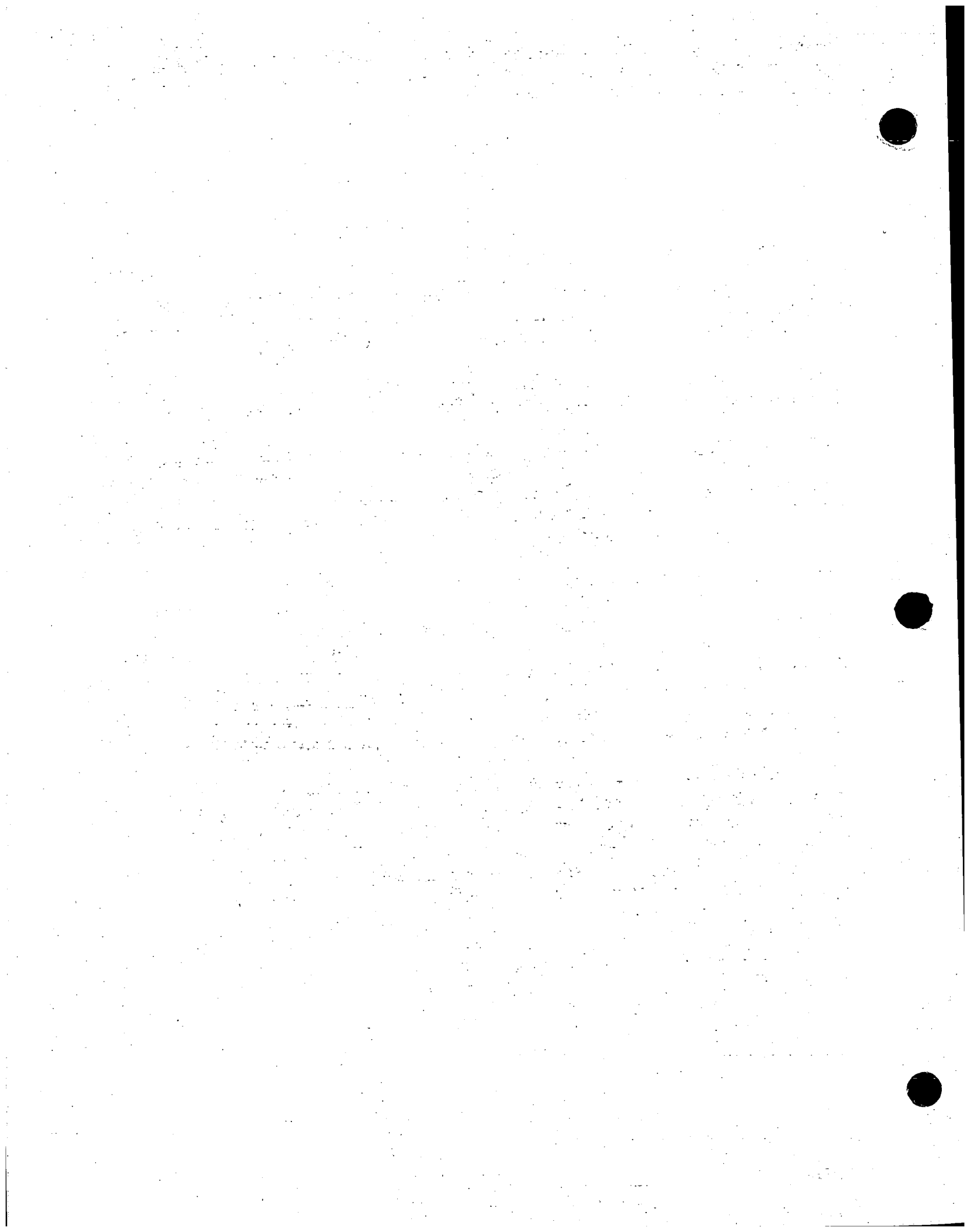
I remember that when my legs wouldn't hold me any more and I collapsed in the snow, you sat down next to me and never left my side. I think often (a scene I relive over and over) about how kind that was of you. I also know how difficult it must have been for you as I argued that Jim wasn't really dead. You had to keep telling me that he was. I wouldn't have your job for anything.

I could tell by the look in your eyes that you were hurting. I would not recognize you on the street today, but if I looked into your eyes I would remember them. The pain I saw reflected there is something I will never forget. I'm sorry that I haven't written you before now. I have been waiting for the trial, which has been postponed six times, and it has been difficult for me to write. I hope to meet you in person some day and thank you for being such a caring and compassionate human being. I know how much negative feedback law enforcement officers get. But officers like you, who in my opinion go beyond the call of duty, need to know that they are appreciated.

I have been trained in crisis counseling. This made me aware that you were doing everything just right. I needed to get in the car and hold Jim's broken body in my arms and kiss him goodbye, and you didn't deny me that right. I thank God that you allowed me to spend time with Jim while his spirit was still there. I thank God for caring people like you who are forced to witness tragedies like this every day. My hope is to someday keep intoxicated drivers off the road, not only for the families of the victims but also the forgotten victims such as you.

Thanks and God Bless,  
Jeri Hodson





## VICTIMS OF CRIME: ISSUES IN INDIAN COUNTRY

by

Cathy Sanders

Since 1987, the Office for of Victims Crime (OVC) has focused discretionary Victims of Crime Act (VOCA) funds on improving services for federal victims of crime in Indian Country. Efforts include building a network of victim assistance programs in Native American communities, providing training, and developing informational materials that assist Native American crime victims to understand tribal and federal criminal justice systems, their rights, and available services.

### Historical Overview

A new idea surfaced in the early 1980's about crime victims and how they were being victimized twice--once by the criminal, and then again by the criminal justice system. The system invested more in attending to the rights of offenders than in assisting the victims of their crimes, and seemed to blame victims, sending a message that victimization was the result of their own negligence.

To address this inequity, a task force was established to examine victims' issues and develop a blueprint for how the criminal justice system and others should improve the response to crime victims. It was the first major effort undertaken by the federal government to address victims' rights. The outcome of the research and recommendations of the task force was the passage of the Victims of Crime Act (VOCA) of 1984,<sup>1</sup> which furnished a mechanism to generate monetary resources for victim assistance services.

### Establishment of OVC

VOCA established the Office for Victims of Crime (OVC) which was given the responsibility for administering the Crime Victims Fund. Each year, millions of dollars are deposited into this Fund from criminal fines, forfeited bail bonds, penalty fees, and special assessments collected by the U.S. Attorney's Offices, the U.S. Courts, and the Bureau of Prisons. These dollars come from offenders convicted of federal crimes--not from taxpayers. The goal in administering the Crime Victims Fund is to assist the states to develop a comprehensive network of services to meet the needs of victims of violent crimes.

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1. Pub. L. No. 98-473, 98 Stat. 2170 (1984).

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## Crime Victims Fund Deposits

The first \$6.2 million deposited into the Fund in each of the fiscal years 1992 through 1995, and the first \$3 million thereafter, are disbursed to the Administrative Office of the U.S. Courts to establish a centralized, automated National Fine Center. The Fine Center was established to receive all fines and assessments, compute interest and penalties, send monthly statements to debtors, prepare and mail delinquency and default notices for the Department of Justice (DOJ), and provide statistical information on the deposits received in the Fund.

The next \$10 million is used to improve the investigation and prosecution of child abuse cases. The \$10 million is split between the U.S. Department of Health and Human Services (\$8.5 million) and OVC (\$1.5 million). *The portion administered by OVC is used exclusively to help Indian tribes improve the investigation and prosecution of child abuse cases, particularly child sexual abuse cases.*

The remaining Fund deposits are distributed to State compensation programs (48.5%); State victim assistance programs (48.5%); and training and other assistance (3%) to expand and improve the delivery of services to crime victims, including victims of federal crimes.

## Victim Compensation

**What is crime victim compensation?** Crime victim compensation is a direct payment to, or on behalf of, a crime victim for crime-related expenses such as unpaid medical bills, mental health counseling, funeral costs, and lost wages. Other compensable costs may include such expenses as eyeglasses or other corrective lenses, dental services and devices, prosthetic devices, and crime scene cleanup. Every state administers a crime victim compensation program. These programs provide assistance to victims of both federal and state crimes, including victims on Indian and military reservations. Although each state compensation program is administered independently, most programs have similar eligibility requirements and offer a comparable range of benefits. Maximum awards generally range between \$10,000 and \$25,000.

The typical state compensation program requires victims to report crimes to police within three days and to file claims within a fixed period of time. If other collateral sources of help are available, such as private insurance, compensation is paid only to the extent that the collateral resource does not cover the loss.

Examples of how these funds might be used: (1) A thirteen year old Navajo girl was sexually assaulted by a relative. In addition to the medical services provided by the Indian Health Service, the state compensation program reimbursed the family for the traditional healing ceremonies performed by a medicine man. (2) A four-year-old North Dakota girl was injured when her father tied her up and sexually molested her. He told her he would hurt her if she told. Charges were brought against the father. The state compensation paid for the child's physical examination and psychological counseling. (3) A father of a 7-month-old infant, who was beaten to death by the babysitter, was awarded \$1,500 for burial

expenses.

Currently, all 50 states, the District of Columbia, the U.S. Virgin Islands, and Guam have established victim compensation programs.

### Victim Assistance

**What is victim assistance?** Victim assistance includes services such as crisis intervention, counseling, emergency transportation to court, temporary housing, and criminal justice support and advocacy. Throughout the nation, there are more than 8,000 organizations that provide these and other services to crime victims. Nearly 3,000 of those organizations receive some VOCA funds. All states, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and Palau are eligible to receive a VOCA victim assistance grant. Each state/territory, except Palau, currently receives a base amount of \$200,000. (Note: The recently enacted Anti-Terrorism and Effective Death Penalty Act of 1996 increases the base amount to \$500,000 for each state and \$200,000 for each territory beginning in Fiscal year 1997). The remainder of the Fund that is available for VOCA assistance grants is then distributed according to population data. Upon receiving the VOCA grant, each state awards these funds to public and nonprofit organizations to provide services to victims of crime.

Each state has discretion to determine which organizations will receive funding based upon the VOCA victim assistance guidelines and the needs of crime victims within the state. However, VOCA assistance funds can be used only for direct services to crime victims. Services such as offender rehabilitation, criminal justice improvements, and crime prevention activities cannot be supported with VOCA assistance funds.

Examples of how these funds may be used: (1) In Montana, a program that received VOCA funds operates a sexual abuse project which offers therapeutic treatment to preschool victims of sexual assault. Services include: initial intake, 12-week therapy, and consultation with local child welfare and District Attorney representatives. Also, the agency offers education and support groups to parents to assist them in responding appropriately to their sexually abused children. (2) A Florida woman's husband hit her in the face, breaking her nose in front of their three children. With no resources of her own, she knew leaving him would not be easy. She called her local domestic violence shelter, which provided housing and counseling for her and the children and helped her obtain a restraining order. (3) On a rural pueblo Indian community in New Mexico, victim assistance and advocacy services are provided by a police-based victim witness program.

### Establishment of the Children's Justice Act Grant Program for Native Americans

As the seriousness of child abuse and its consequences was coming to the forefront of our nation's awareness, reports of child sexual abuse and disclosures of multiple-victim-child molestation cases on Indian reservations also escalated at an alarming rate. We were brutally brought to the reality that child sexual abuse exists—not just in homes where parents are over stressed, indigent, or themselves abused, but across all income levels and in schools, day

care centers, and boy scout troops--those institutions we most trusted with our children's health and happiness.

The handling of child abuse cases in Indian country was exacerbated by geographic isolation and a general lack of victim services. The absence of trained medical and mental health professionals who understood the impact of child sexual abuse often resulted in child victims and their families being left on their own to deal with the emotional consequences of abuse. Procedures for sensitive and thorough pediatric forensic examinations, as well as follow-through with mental health counseling, which is critical to a child's recovery, were frequently nonexistent. Community education was also necessary to ensure that responsibility for the crime was placed on the abuser and not on the child victim or the victim's family.

The revelations of sexual abuse of Indian children on reservations and the problems Indian tribes faced in trying to deal with the abuse became evident. In order to respond more effectively to this situation, OVC proposed that Children Justice Act<sup>2</sup> funds be made available to Indian tribes to establish the same types of multi disciplinary programs that were being provided at the state level. In 1988, the Anti-Drug Abuse Act<sup>3</sup> was signed into law. This legislation amended VOCA and authorized \$675,000 of the funds available to the Department of Health and Human Services for state CJA programs be used by OVC to make grants directly to Indian tribes to improve the handling of child abuse cases, particularly child's sexual abuse cases. VOCA has been further amended to increase the annual amount to \$1,500,000. OVC established the Children's Justice Act Grant Program for Native Americans (CJA) and made its first awards directly to tribes in 1989. Since 1989, approximately \$5,000,000 has been awarded to 40 tribes and tribal organizations through the CJA program.

The CJA program is the only source of federal funding for tribes that focuses on improving the investigation, prosecution, and handling of child abuse cases. Grants are made directly to Indian tribes to address a range of systemic improvements that are directed to increasing the support for Indian child victims and lessening the trauma associated with the investigation and handling of these complex cases. The CJA projects have supported: (1) establishment, expansion, and training for multi disciplinary teams; (2) revisions of tribal codes and procedures to address child sexual abuse; (3) development of protocols for reporting, investigating and prosecuting child sexual abuse cases; (4) specialized training for prosecutors, judges, investigators and other professionals who handle child sexual abuse cases; (5) development of procedures for establishing and managing child-centered interview rooms; and (6) establishment of special prosecution units.

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2. Pub. L. No. 99-401, 100 Stat. 903 (1986).

3. Pub. L. No. 100-690, 102 Stat. 4312-4387 (1988).

## **DIRECT VICTIM ASSISTANCE SERVICES**

### **Victim Assistance in Indian Country Program (VAIC)**

The VAIC grant program provides funding to states to establish "on-reservation" victim assistance programs in areas of Indian Country where there are no or only limited services for victims. There are 35 programs operating through funding from OVC in the states of Arizona, Colorado, Idaho, Iowa, Kansas, Michigan, Minnesota, Mississippi, Montana, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, Wisconsin and Wyoming. Services provided through VAIC include: crisis intervention; emergency shelter; mental health counseling; and court advocacy. There is a strong, cooperative working relationship between the federal victim-witness coordinators in U.S. Attorneys' offices and the tribal victim assistance coordinators in Native American communities. Tribal staffs often accompany victims to federal court proceedings and federal victim-witness coordinators regularly provide information on case events to the tribal coordinators. This cooperative relationship allows victims who are isolated and have few means of communication access to current information about their cases.

To date, approximately \$5,438,640 has been expended on this program. In FY 1995, nineteen states received approximately \$765,245 to make awards directly to Indian tribes to establish victim assistance programs in Native American communities.

### **Federal Crime Victims Assistance Fund**

OVC has established this fund to meet the needs of federal victims of crime when assistance services are otherwise unavailable. Victim Witness Coordinators in the 93 U.S. Attorneys' Office can request access to the fund from OVC to meet the needs when local service resources are unavailable.

## **TRAINING AND TECHNICAL ASSISTANCE EFFORTS**

### **Indian Nations Conference**

Since 1988, OVC has funded five Indian Nations Conferences. Each conference has brought together victim service providers, law enforcement officials, prosecutors, and health and mental health professions to address issues of victimization in Indian country. The National Indian Justice Center, Inc. (NIJC) will organize and host the sixth conference, which is scheduled to be held in San Diego, California on January 23-25, 1997. The purpose of the conference is to address the needs of tribal communities in providing assistance to innocent victims of crime and handling cases of child physical and sexual abuse.

### **District Specific Training**

In order to respond to federal districts' diverse training needs, OVC has designated funds to support victim assistance training programs for federal and tribal law enforcement officers, prosecutors and victim-witness coordinators. The purpose of this effort is to provide multi-

disciplinary training that improves the response to crime victims in the participating districts.

Each of the conferences has resulted in improved federal and tribal communication and case handling. For example, the Northern and Eastern Districts of Oklahoma signed Memoranda of Understanding with 23 tribal leaders that define federal, tribal, and state responsibility for investigating reports of child abuse, prosecuting cases and protecting children.

### **Trainers Bureau**

Through the Trainers Bureau, OVC has identified funding to support victim assistance consultants and speakers to travel to federal districts and eligible tribes. OVC is building and maintaining a list of available trainers and consultants with expertise in fields such as crisis intervention, mental health needs of victims, development of tribal codes that address family violence and interviewing child victims. OVC will approve requests for a special trainer or assist eligible tribes to locate expert trainers to address identified needs.

### **Training and Technical Assistance for CJA and VAIC Grantees**

These projects provide comprehensive, skills-building training and technical assistance to Indian tribes and organizations that receive grants through the CJA and VAIC programs. The CJA training efforts focus on a multi disciplinary approach to investigating and prosecuting child sexual abuse cases in a manner that limits the trauma suffered by child victims and to treating and advocating for child sexual abuse victims. The VAIC training efforts provide program materials and technical assistance that are uniquely tailored to the needs of Indian communities. The training is designed to enhance, expand and improve direct services such as crisis intervention, emergency shelters, mental health counseling, and court advocacy.

## **VICTIM ASSISTANCE INFORMATIONAL MATERIALS**

### **Bitter Earth-Child Sexual Abuse in Indian Country -- A Video**

This film is intended for tribal leaders and tribal personnel who work on a daily basis to prevent, investigate, or otherwise handle child sexual abuse at the tribal level. The film defines and gives an overview of child sexual abuse, the harm it causes, the approaches the community can take for handling it, the available resources, and presents a call-to-action for communities to address this devastating crime. A discussion guide is distributed with the video to appropriate tribal, federal, state and local agencies across Indian country.

### **B.J. Learns About Federal and Tribal Court -- A Video**

This culturally sensitive film is designed to meet the special needs of Native American child victims who are required to testify in either tribal or federal court. It answers questions frequently asked about the courtroom, courtroom procedures and the people who participate in court proceedings. Approximately 1,500 films and instructors' guides have been distributed to appropriate tribal, federal, state and local agencies across the country.



## **Financial Assistance for Crime Victims -- A Video**

Through funding supplied by OVC, the National Association of Crime Victim Compensation Boards produced a 16-minute video that explains crime victim compensation programs and provides guidance to tribal communities on accessing compensation resources.

## **Resource Packages for Children Required to Testify in Federal Court**

Through funding from OVC, the Medical University of South Carolina's National Crime Victims Research and Treatment Center will produce material that will assist child victims and witnesses of federal crimes. The project will develop and print four separate camera-ready booklets as part of a child victim assistance resource package for distribution to federal criminal justice personnel. The package will be used to help alleviate the trauma commonly experienced by children required to testify in federal court and to improve the response of federal and tribal criminal justice personnel to the rights and needs of such children. The four camera-ready products will be distributed to each United States Attorney's Office for use by the federal victim-witness coordinator.

## **Conclusion**

OVC continues to expand its efforts to offer practical solutions for judges, law enforcement, social services, medical and health professionals, victim advocates and others in working with crime victims. In fiscal year 1995, OVC convened a focus group to discuss crime victims' issues relevant to Native American communities. In response to concerns expressed at the focus group meeting, OVC initiated several new approaches to enhance victim assistance services in Indian Country, including:

increasing the number of CJA-funded projects;

increasing the total dollar amount allocated to the VAIC program;

initiating a program to develop topic-specific articles on issues relevant to child abuse and neglect, family violence, and child victimization in Indian Country;

developing a tribal judges project in which intensive training and program manuals on "the adjudication of child sexual abuse cases occurring in Indian country" will be provided to regional tribal and federal judges;

developing scholarship funding for tribal judges and other court personnel to attend training in child abuse and family violence issues;

supporting training and technical assistance for the establishment of children's advocacy centers in Indian Country; supporting the development of Court Appointed Special Advocates in Indian country; and

increasing funding for the Indian Nations Conference to allow more scholarships for attendance by those who otherwise could not attend.

OVC's experience over the past seven years has shown that a strong tribal approach to the handling of child victimization cases is crucial to providing victims with an opportunity to heal. Coordination with federal and state systems is also critical in providing a meaningful response to the needs of victims. OVC will continue to support tribal communities in their efforts to ensure healing for those who have been exposed to violence, and we challenge Indian communities to coordinate and implement responses that best meet the needs of their children and families.



# THE CRIMINAL JUSTICE ISSUES OF INDIAN COUNTRY

by Joseph Myers

**T**he array of problems that plague Indian law enforcement agencies are grounded in the historical policies of the federal government concerning law and order in Indian country. This article can only state these problems briefly. To achieve a competent understanding of these issues the reader necessarily must examine the laws and cases noted in the article. For those of you who are familiar with these issues and want to resolve them, this paper may give you a new perspective.

In the early history of the United States, the federal government confined Indian people to a so-called "reservation system" for the purpose of removing them from the path of the emerging "American society." They were in the way. Indian tribes ceded their homelands and were removed to vast tracts of land set aside in isolated regions of the country for "Indian purposes." In most instances, the reservation system undermined tribal life styles and created a chronic dependence by Indian people upon the federal government.

Indian tribes were led to believe that such cessions of land were in their best interests. However, many tribal members perished in the agonizing treks from homelands to reservations. And, in the administration of Indian reservations cultural integrity was often assailed, Indian values attacked, their religions criticized and stifled, and their children placed in schools away from their families and cultural ties.

Indian reservations were prisoner of war camps. Tribal people were forced to exist in environments unfamiliar and often hostile to them. Law and order was grounded in a system of confinement, perpetuated by the United States

military, federal Indian agents and the Indian police. Initially, Indians were guarded militarily and not permitted to travel off the reservation. Criminals were punished at the hands of Indian agents. Of course, much has changed over the years. In recent times the character of reservation law and order has changed dramatically as tribal governments have assumed a more active role in local administration of services. This institutional shift is promising but far from complete.

Although the people of Indian country are not immune from the rampant violence of today's American society, tribal government officials now bear the responsibility of creating effective policies that provide for the safety of the people who live, work and/or visit in Indian country. They must take the offer of the government-to-government relationship to a new level that includes an abandonment of a chronic dependence on the Bureau of Indian Affairs (BIA). The exercise of tribal sovereignty is well within reach of today's tribal leadership.

The Indian Law Enforcement Reform Act of 1990 is congressional legislation that seeks to clarify and strengthen the authority of the Secretary of the Interior to provide law enforcement services, activities, and officers in Indian country.<sup>1</sup> In general, the Act provides statutory authority for the BIA police functions which were previously recognized, but not specifically authorized by federal law.

Specifically, the Act: (1) makes the Secretary of the Interior responsible for providing law enforcement services in Indian country, (2) establishes the Division of Law Enforcement Services and the Branch of Criminal Investigations within the BIA, (3) grants the Secretary investigative jurisdiction over federal criminal offenses committed<sup>2</sup> in Indian

<sup>1</sup> 25 U.S.C.A. §2801 et. seq., Pub. L. No. 101-379 (1990).

<sup>2</sup> 5 BIAM Supplement 1, and 10 BIAM Bulletin 14.



country, and (4) authorizes the U.S. Attorney and FBI officials to provide reports to governmental and law enforcement officials of an Indian tribe regarding declined prosecutions and terminated investigations.

Although the Indian Law Enforcement Reform Act was signed into law on August 18, 1990, after intense hearings in which testimony was given by tribal leaders and various federal agents, the full impact of the law has yet to be realized because of special interests within the BIA that tend to impede the professionalism of police services in Indian country. A controversial mission of the Act is the provision requiring all BIA criminal investigators to be supervised by other criminal investigators, and ultimately by the Chief, Division of Law Enforcement. Ostensibly, this is a reasonable approach to developing an effective crime investigation program. Unfortunately, this proposal of line authority has been short circuited by agency superintendents and area directors who do not want to relinquish power over BIA criminal investigators in their jurisdictions. One superintendent went so far as to change a law enforcement job classification to keep it under his control.

On December 23, 1992, the Deputy Commissioner of Indian Affairs signed a document which established line supervision of all BIA criminal investigators by the Chief, Division of Law Enforcement. This action did not automatically establish line authority. Unless those agency superintendents and area directors who are at odds with the congressional policy abandon their position in favor of genuine cooperation, this line authority will continue to be short circuited.

There are chronic problems which surround the administration of justice in Indian country. These problems have been studied and studied but remain virtually unresolved. A lingering issue is the inadequacy of funding for law enforcement in Indian country. Most tribes depend substantially upon the BIA for the funding of police services, whether directly or through a 638 contract.<sup>3</sup>

There is a tendency to fund hardware before investing in substantive training, infrastructure, and facilities. There is

no doubt that patrol cars and weapons are necessary and important. However, policies and procedures, effective laws and safe facilities must also be in place in order to effectively administer a criminal justice system. Tribal governments must be innovative in fundraising for police services. Gaming tribes should invest in this fundamental responsibility of government.

Another important issue is the training of police officers, basic and in-service training. Historically, critics have labelled the training inadequate.

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## *There are chronic problems which surround the administration of justice in Indian country.*

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For years the BIA ran a police academy in Utah. It was then moved to Arizona; and, it is now located in the southern desert of New Mexico. Tribal administrators often complain about the isolated location of the BIA police academy.

Despite the various moves and isolated venues, the police training programs of the BIA have improved dramatically over the years. Unfortunately, uniform training standards may be difficult to meet given the numerous tribal jurisdictions and the protective nature of tribal governments about their sovereignty and their chronic suspicion of the BIA.

Police training programs work when the individuals being trained have the potential to digest the information and utilize it in the field. This is a problem in Indian country. Low salaries, inadequate criteria for hiring and limited access to training make it difficult to depend on the current training envi-

ronment for the improvement of criminal justice in Indian country. The training of law enforcement officials does not belong under the stewardship of the BIA. This responsibility belongs to the U.S. Department of Justice if in fact it needs to be a federal responsibility. It could very well be that a national consortium of tribes could launch and operate a training facility that meets the law enforcement needs of Indian country. It could very well be a state of the art, pace setting operation that imparts the skills and technological information that brings reality to law and order in Indian country. The present training environment is being heavily attacked by federal funding cutbacks. Intertribal strategies should be created to assure effective law enforcement training programs in the future.

As previously noted, tribal police officers are paid low salaries. This poses several problems, one of which is extremely crucial. Usually, you cannot hire good, competent people by offering them inferior salaries. Most people want to be paid what they are worth. If deputy Smith of county A makes more but is worthless, commitment and motivation of the tribal police officer will be difficult to harness.

What may be even more frustrating for some tribal police officers, is the current attention paid to security personnel of Indian casinos concerning training and wages. In some instances former non-Indian police officers occupy casino security positions and earn more money with much less responsibility to tribal law and order. This issue can only be resolved at the local level by the particular tribal government involved. The safety and welfare of Indian communities should be worth more than casino security.

The most troubling issue to all law enforcement personnel in Indian country is jurisdiction. Who exercises jurisdiction over a particular crime? Is it the FBI, DEA, ATF, Tribal police, BIA police, county sheriff, city police, none of the above or all of the above? Depending on the crime committed, the state in which the crime is committed, the race of the defendant, or the priority of the prosecutor involved, any one of these particular police agencies or any combination of them or all of them could be

<sup>3</sup> Indian Self-Determination and Education Assistance Act, 25 U.S.C. §450 et seq.



involved in the criminal investigation of a particular crime. The term has been extremely overworked but there is a "maze of criminal jurisdiction conflicts in Indian country."

A cornerstone of Indian affairs policies of the federal government has been "Indian people as separate and apart from the American society." Crimes involving an Indian perpetrator and victim were resolved under tribal law until federal officials intervened in a case because they did not agree with the action of the tribal tribunal.<sup>4</sup> The United States Supreme Court rejected the federal intervention and acknowledged the sovereignty of Indian tribes. Unsatisfied with the opinion of the Court the Congress (pursuant to its plenary power in Indian affairs) passed into law the Major Crimes Act<sup>5</sup> which authorized federal court jurisdiction over seven major crimes.<sup>6</sup> Congress did not by law eliminate tribal jurisdiction over these crimes. It merely opened the door of concurrent jurisdiction between the tribes and the federal system. However, a historical dependence (already in existence) was perpetuated by the Act and the dependence remains intact today.

A fundamental principle of federal Indian law is that the states cannot exercise jurisdiction (impose their laws) in Indian territories without the consent of Congress.<sup>7</sup> Historically, Congress has acted sparingly concerning the exercise of state jurisdiction in Indian country. However, in 1953, it enacted Public Law 280<sup>8</sup> which allowed five states (later Alaska as a state) mandatory criminal jurisdiction over crimes committed on Indian reservations within their borders.<sup>9</sup> Public Law 280 was the "facilitating legislation" for a new era in federal policy in Indian affairs called "termination." The policy failed miserably and was subsequently abandoned but Public Law 280 remains as a law which breeds contempt between the tribes and states involved. Simply stated the promoters of Public Law 280 assured the Indian leaders involved that police

services from the states would be forthcoming. The states were granted criminal jurisdiction but no funding to implement the law and meet the expectations of Indian people. Promises were made and never kept.

Public Law 280 remains today as a symbol of confusion to state and county police officials. In particular instances it is used as an excuse to do nothing and at the other end of the spectrum it is used to harass and intimidate. Public Law 280 does provide state and county law enforcement officials criminal jurisdiction on Indian reservations involved;

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however, the law does not extinguish tribal criminal jurisdictions. The law created false expectations (promoted by BIA officials) that state law enforcement services would be forthcoming to tribes. Consequently, the tribes in Public Law 280 states did not build criminal justice infrastructure in their communities nor did the BIA encourage such infrastructure.

In 1978 the United States Supreme Court ruled that tribal courts had no inherent criminal jurisdiction over non-Indians.<sup>10</sup> On many reservations this translated into a notion that the tribal or the BIA police could not arrest non-Indians. However, the ruling attacked the sovereignty of tribal govern-

ments by limiting the criminal jurisdiction of tribal courts. It did not and does not prevent tribal police officers from detaining non-Indians to keep the peace and provide for the safety and welfare of Indian communities. They just cannot be prosecuted for crimes against the tribal criminal statutes. In 1990, the Supreme Court went one step further by ruling that non-member Indians should also be exempt from tribal court criminal jurisdiction.<sup>11</sup> The Courts opinion was overturned by Congressional action<sup>12</sup> which amended the Indian Civil Rights Act of 1968 to acknowledge the criminal jurisdiction of tribal courts over all Indians. If Congress were bold enough to have recognized the criminal jurisdiction of tribal courts over all persons, Indian people could be confident about the policy of the government-to-government relationship. Unfortunately, suspicions persist.

What is most alarming in Indian country today has nothing to do with the funding for police services, the training of police or the impediments of criminal jurisdiction. Violence is rampant throughout this country and Indian communities are not immune from this American problem. Tribal leaders need to acknowledge that child abuse, domestic violence, and gang violence are factors that need to be effectively addressed. These are community issues that require families and service providers to work together.

Much has been made of the Indian commitment to live in harmony with the earth and the creations of nature. Traditional Indian religions often espouse the doctrine of living in balance with nature. Let us move these teachings to another level which solicits harmony and balance with one another in our own communities. Mutual respect and the well being of families and children should not be issues to be resolved but should be viewed as experiences to enrich the lives of the people of Indian country.

<sup>4</sup> *Ex Parte Crow Dog*, 109 U.S. 556, 27 L. Ed. 1030, 3 S. Cl. 396 (1883).

<sup>5</sup> Major Crimes Act, 18 U.S.C. §1153.

<sup>6</sup> Currently, this act covers 16 major crimes.

<sup>7</sup> *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515, 8 L. Ed. 483 (1832).

<sup>8</sup> Act of August 15, 1953, ch. 505, 67 Stat. 588-90, codified as amended at 18 U.S.C. §1162, 28 U.S.C. §1360, 25 U.S.C. §§1321-1326, 28 U.S.C. §1360.

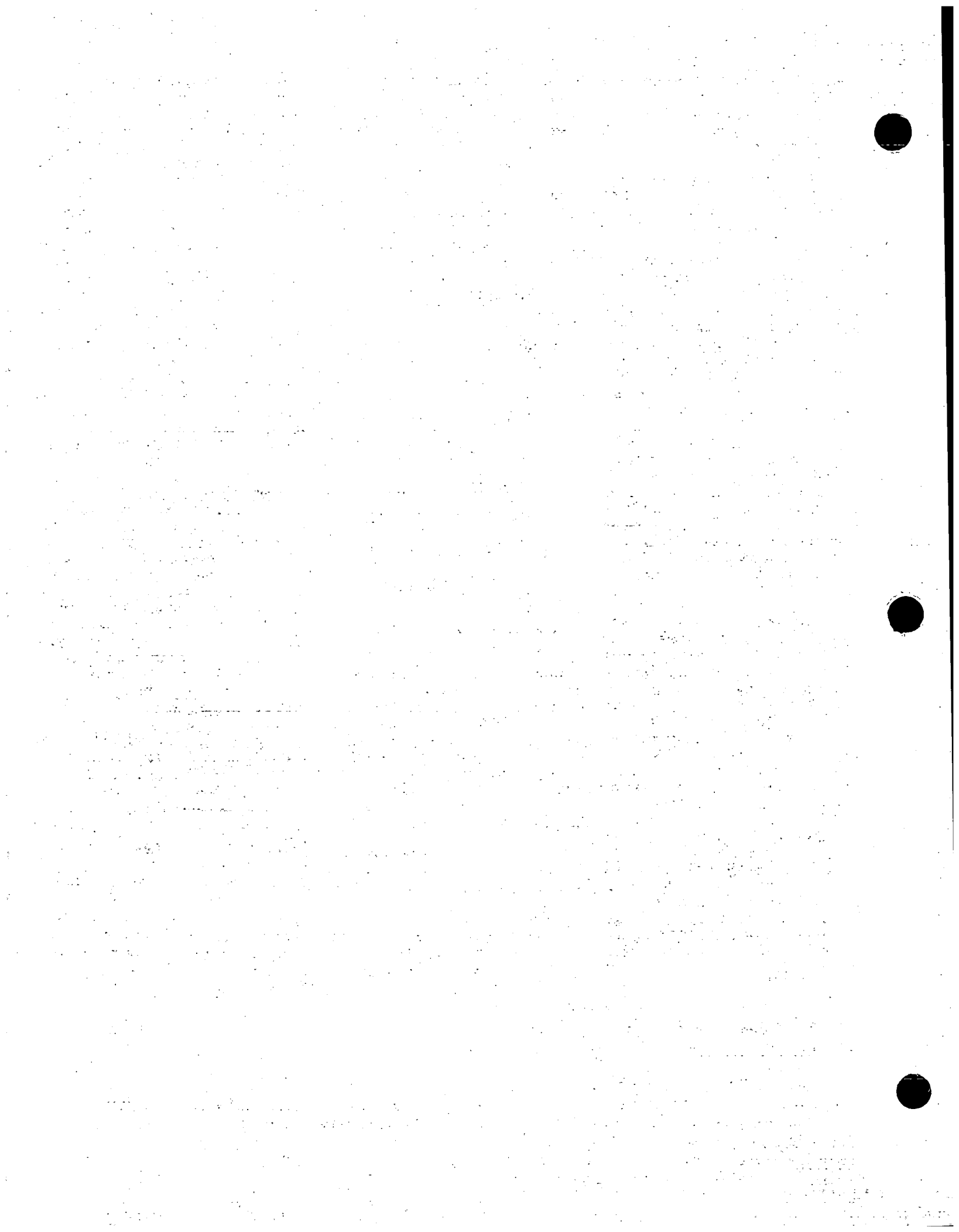
<sup>9</sup> *Exempted Warm Springs Reservation in Oregon, Red Lake Reservation in Minnesota, and Metlakatla Reservation in Alaska.*

<sup>10</sup> *Olliphant v. Suquamish*, 435 U.S. 191, 55 L. Ed. 209, 98 S. Cl. 1011 (1978).

<sup>11</sup> *Duro v. Reina*, 495 U.S. 676, 109 L. Ed. 2d 693, 110 S. Cl. 2053 (1990).

<sup>12</sup> See the Indian Civil Rights Act of 1968, 25 U.S.C. 1301-1303 at 1301(2).







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Sixth National Conference on Strengthening Indian Nations

Justice for Victims of Crime in Indian Country

January 23, 1997

WORKSHOP: Improving Federal & Tribal Response to Crimes  
in Indian Country

TITLE: "Overview of the U.S. Attorney's Role In Tribal Courts"

BY: Kristine Olson, United States Attorney, District of  
Oregon  
Tim Simmons, Assistant United States Attorney, District  
of Oregon

To completely address criminal and civil legal issues within the United States, there must be "full faith and credit" recognized between the courts of its three jurisdictions: federal, state, and tribal. Historically, federal and state jurisdictions have attempted to coordinate resources and work together to address issues. Unfortunately, tribal governments and courts have not always been included in this coordinated effort. The U. S. Department of Justice (DOJ) is presently taking steps to change this trend and include tribal courts in coordinated efforts to address criminal justice issues.

This article will describe the recent projects the Department of Justice, and specifically, the United States Attorney's Office (USAO) for the District of Oregon, has incorporated to establish cooperative relationships between tribal and federal courts. Although these projects only represent the initial steps to establish and strengthen cooperative partnerships, we hope that these partnerships will establish a strong foundation to develop long term solutions to criminal justice issues in Indian Country.



In 1994, President Clinton directed federal agencies to deal with Indian tribes on a government-to-government basis when tribal government or treaty rights are at issue.<sup>1</sup> Last year, Attorney General Janet Reno issued a DOJ policy on Indian sovereignty and government-to-government relations with Indian tribes. The United States Attorney's Office in the District of Oregon has made the fulfillment of the trust responsibility and the overall strengthening of the relationship between tribal governments in the State of Oregon and the USAO as one of its top priorities. One of the most important parts of self-government is the power to create and administer an independent justice system. The USAO is firmly committed to increasing self-determination for tribal governments in the District of Oregon by strengthening tribal court systems.

The jurisdictional scheme associated with Indian Country is at times complicated and confusing. Determination of whether an incident is tribal, state, or federal jurisdiction will depend upon the location of the crime, the type of crime committed and whether the victim and the defendant are Indian or Non-Indian.<sup>2</sup> While the federal government typically has a significant responsibility for law enforcement in Indian Country, tribal courts are ultimately the most appropriate justice systems for establishing and enforcing order in tribal communities. Tribal courts are local institutions which are closest to the people they serve and best understand the needs of the community. Fulfilling the federal government's trust responsibility to tribal governments means not only adequate federal law enforcement in Indian Country<sup>3</sup>, but enhancement of tribal courts as well.

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<sup>1</sup>See Memorandum for the heads of executive departments and agencies on the subject of government-to-government relations and Native American tribal governments. Public papers of the President of the United States. William J. Clinton. 1994, Book I at 800-803.

<sup>2</sup>The Indian Major Crimes Act, 18 USC § 1153, created federal jurisdiction over serious felonies committed by Indians. The General Crimes Act, 18 USC § 1152, created federal jurisdiction over crimes between Indians and non-Indians.

<sup>3</sup>In 1953, Congress granted to certain states, including Oregon, jurisdiction over crimes occurring in all or specified parts of "Indian Country" in those states, pursuant to Public Law 280, since codified at 18 U.S.C. § 1162, 28 USC § 1360, and 25 USC § 1321-1326.

Five tribal governments have established tribal courts in the District, varying in size and scope of jurisdiction. The USAO supports the operation of these tribal courts and the establishment of future courts to address criminal justice issues in Indian Country. This office has recently been involved with three significant events which will have a direct impact on creating cooperative partnerships to address issues in Indian Country.

### 1. Tribal Liaison

The Department has encouraged United States Attorneys to appoint special assistants for tribal relations in order to develop better working relations with tribal governments and to provide a point of contact for Indian crime victims. In recognition of the importance of this task, 26 additional Assistant United States Attorney positions have been provided to those districts containing significant amounts of Indian Country. To assure that the District of Oregon fulfills its trust responsibility, the United States Attorney has recently hired an Assistant U.S. Attorney dedicated to serving Indian Country and tribal governments within the State of Oregon.

The goals of the tribal liaison position are to: (1) communicate with tribal representatives about issues of concern to tribes; (2) ensure that DOJ policies and positions are clearly communicated to tribes; (3) promote internal sensitivity and uniformity in the USAO's policies and litigating positions relating to Indian Country; and (4) maintain an official liaison with the federally recognized tribal governments.

### 2. Federal Magistrate Court Project

The ability of tribal governments and tribal courts to deal with crime in Indian Country is complex and limited due to a web of criminal jurisdiction which includes the federal, state and tribal governments. Under present federal law, tribal courts are prohibited from prosecuting non-Indians. Oliphant v. Saguamish Indian Tribe, 435 U.S. 191 (1975). As a result of a Jefferson County District Court opinion, State of Oregon v. Francisco Sanchez, Jefferson County District Court Case Nos. CR3-0614-34 and CR3-0680-34, non-Indians who commit misdemeanor crimes on the reservation against Indians are exempt from criminal prosecution in Oregon state courts.

The consequences of the Sanchez opinion and the limited jurisdiction of tribal courts have been to vest sole and exclusive misdemeanor criminal jurisdiction over non-Indians who commit crimes against Indians to the United States District Court. In the past, the United States has limited its

prosecutions of cases arising on the reservation to major crimes, thus providing no forum readily available to try misdemeanor cases when the offender is a non-Indian, the victim is an Indian, and the offense occurred in Indian Country.

To close this jurisdictional gap on Indian reservations, the U. S. Department of Justice has begun the Tribal Courts Project. One of the purposes of the Tribal Courts Project is to fight crime in Indian Country by encouraging the convening of federal court, using a magistrate judge, on or near reservations to prosecute crimes committed on Indian reservations. The establishment of these courts involves no expansion of federal jurisdiction, only a full exercise of existing federal court jurisdiction. The intent of the Tribal Courts Project is not to encroach on tribal sovereignty, but only to fill the described jurisdictional gap.

The United States Attorney for the District of Oregon, in coordination with the tribal government of the Confederated Tribes of the Warm Springs Reservation, the judges of the Warm Springs Tribal Court, and the United States District Court of Oregon, has established the first U.S. Magistrate Court on the Warm Springs Reservation in Oregon. This Magistrate Court first convened on June 9, 1995, and is scheduled to conduct a monthly session to adjudicate only the non-Indian misdemeanor cases that are beyond the tribal court's criminal jurisdiction.

Under this initiative, the U. S. District Court of Oregon provides a part-time magistrate judge and court clerk, the U.S. Attorney provides a prosecutor, and the Warm Springs Tribal Council allows the federal court to use the tribal courtroom. The immediate availability of the federal court will allow tribal police to increase drug enforcement and to work with the Immigration and Naturalization Service to arrest illegal aliens on the reservation engaged in criminal activities.

The project is not only a means for improved law and order on the reservation, but it is also an innovative vehicle for channeling technical assistance and training to tribal courts. In return for the use of the tribal courtroom, the Oregon federal court clerk will provide training and technical assistance to the tribal court clerk in areas such as case management and automated record keeping. The U.S. Attorney's Office will provide training, technical assistance, and oversight to the tribal prosecutor when acting on behalf of the federal government.

### 3. Partnership Project

The overall goal of this DOJ project is to encourage the creation of innovative training and technical assistance for tribal courts' personnel, improve dialogue regarding jurisdictional issues surrounding tribal courts and create partnerships with state and federal judiciaries in the administration of justice.

Last year, DOJ designated 45 tribal governments nationwide as Tribal Court-DOJ Partnership Projects. The primary criterion for designation was a demonstrated commitment by the tribal government to support and strengthen the tribal justice system. The Department's goal is to strengthen tribal justice systems, particularly their abilities to deal with family violence and juvenile issues. The Tribal Courts Project will work with the designated Partnership Projects to assess their court systems and will create technical assistance and training opportunities, primarily through the local offices of U.S. Attorneys.

As part of the Partnership Project, DOJ is institutionalizing a means to certify questions of tribal law to the appropriate tribal courts. The Violence Against Women Act also grants "full faith and credit" to tribal courts' restraining orders. Through means such as these, this Administration is paying more than lip service to the concept of tribal sovereignty.

## CULTURAL SENSITIVITY FOR NON-INDIAN SERVICE PROVIDERS WORKING WITH NATIVE AMERICAN VICTIMS OF CRIME

In recent years, federal employees have been working with Native American victims of crime in increasing numbers. In 1989, the Office for Victims of Crime (OVC) within the Department of Justice, Office of Justice Programs, began funding on-reservation victim assistance programs through the Victim Assistance in Indian Country (VAIC) program. As increasing numbers of Indian victims of crime have come into the criminal justice system, U.S. Attorneys, Federal Victim/Witness Coordinators, FBI Agents, and other federal personnel, who are predominately non-Indian, have encountered cultural differences in working with Native American crime victims.

This monograph will present some of the realities of reservation-based victim assistance programs with the goal of increasing understanding of how VAIC programs may differ from similar non-Indian programs. Any discussion of Indian programs must begin with the caveat that all tribes are different and that there is no single correct way to deal with all Indian programs. Non-Indian personnel working within Indian Country must educate themselves regarding the Indian nations in their jurisdiction.

Non-Indian service providers often work with more than one community. The differences between tribal communities dictate that service providers take care to educate themselves about each tribal nation. Such education may take the form of participation in diversity training and the utilization of consultants, including tribal elders and leaders, to discuss the similarities and differences between tribes and issues related to the tribal structure.

There are three common issues for most Indian Country programs: boundaries, training, and spirituality. The concept of boundaries may be viewed differently within the context of Native American belief systems and those of non-Indians. Indian Nations tend to be similar in their emphasis on community and placement of value on the concept of "helping out." Rigid role definitions often place service providers at odds with this value. OVC funded victim assistance programs, for example, by legislative limitations, can only provide services to people who are victims of crimes. Perpetrators are not eligible for services.

Clients may not understand why a Victim Advocate who is providing services to one member of the family (e.g. a victim of domestic violence) cannot also provide assistance to other members of the family (e.g. the perpetrator). Traditional communal values and holistic orientations directly clash with limitations placed on certain types of government funded programs.

Federal guidelines are most often developed with the majority non-Indian culture in mind. When these same guidelines are utilized by Indian programs, they may conflict with cultural values unknown to non-Indian law makers. These conflicts can lead to the total break-down of a program. Federally funded programs which directly conflict with tribal values are likely to fail.

Tribal employees may be faced with the conflict of adhering to their traditional values or meeting the goals and objectives under a grant. Since values have sustained tribes throughout history, the traditional values are likely to take precedence over grant goals and objectives. Those personnel responsible for monitoring the Indian country grant may be unaware of the values conflict and only be aware of the program's seeming lack of

achievement.

Indian programs face the challenge of maintaining community values and meeting the goals and objectives outlined in the grant. Non-Indian grant monitors must work with tribal programs to identify any such conflicts and to create mutually respectful solutions.

Many Native American communities operate services on the barest of bare bone budgets. Resources of every type are scarce: personnel, materials, funding, office space, housing, vehicles, etc. When resources are scarce, everyone is expected to pitch in and do whatever is necessary. Due to the overwhelming need for services and the scarcity of resources to meet those needs, program staff are often called upon to offer assistance which may be outside the strict definition of their particular job description. This communal approach to providing services can lead to role confusion. For example, some tribal Victim Advocate positions are placed within the Tribal Social Services Department. This placement may lead to the Advocate being treated similar to all other Social Services staff members. Social Services programs often provide 24 hour child protection services to their community. The Advocate may be expected to be on-call as part of the Social Services staff, just like other staff members. This may lead to an Advocate acting as a Child Protective Services worker and removing children from an abusive situation one night and offering the family services as an Advocate the next day.

Clearly this type of situation creates a conflict. However, if the Advocate doesn't take on-call time, the Advocate may be seen as not pulling their weight. Other Social Service staff may resent the Advocate's "privileged" position as someone who does not have to be on-call.

Conversely, due to limited staffing in most victim assistance programs, one Victim Advocate may be expected to be on-call 24 hours a day, 365 days a year. In Kansas, for example, for several years there was only one Native American Victim Advocate in the entire state. She provided services to all Native American crime victims throughout the state on a 24-hour basis. Recent funding increases have allowed a second Advocate to be hired.

The role of Victim Advocate fits well within Indian tradition. The concept of an identified person having a specific talent or role within the community is common among tribes. Every tribal community recognizes some individuals as traditional healers, available to help those in need. Traditional healers are available on a 24 hour basis.

When a person needs to utilize a Medicine person or other type of healer, there are no "office hours." Healers are always available. People may perceive victim service providers in the same category in terms of their availability. Victim Advocates who live on the reservation can be called upon at any time. People will often go to the Advocate's home at midnight, on weekends, or any time that services are needed.

In some communities, the victim assistance program may not offer 24 hour service due to limited staffing. In a program with only one Advocate, for example, that person cannot realistically be "on-call" 24 hours a day, 365 days a week. Since many reservations are small communities where everyone knows everyone else and where everyone lives, victims or other service providers may feel free to access victim service providers at any time of the day or night, just as they would a Medicine person. When someone is standing

on your doorstep seeking assistance, it is difficult to turn them away.

There are many groups which have expectations regarding the services that a victim assistance program will provide: the community, the Tribal Council, federal personnel, and the funding source. It is not unusual for the expectations of these groups to be different or contradictory. The community may believe that victim assistance programs are there to help people, so everyone should be able to access their services (including perpetrators). The Tribal Council may see the need for preventing crimes and expect the program to provide prevention services which are not allowed under the grant. Federal personnel may see the great need for services and expect the tribal program to serve all types of victims although the tribe has highlighted a single type of victim to be served (e.g. domestic violence victims). OVC expects the program to meet their goals and objectives and operate within the guidelines of the Victims of Crime Act.

A tribe which obtains OVC funding for services to victims of domestic violence, for example, may not meet the expectations of several of these groups. If the community wants a program which provides services to everyone, the program will be pressured to provide services to batterers. The Tribal Council may expect the program staff to provide prevention services as well as intervention services. The Federal Victim/Witness Coordinator may see a great need for services to other types of victims and expect the program to offer services to all victims of crime. The program itself must meet their stated goals and objectives and follow the terms of their grant.

These conflicting expectations may lead to the perceived failure of the program by one or more groups. This perception may be the result of a conflict in values. On a national level, there has been strong recognition for the need for services for victims of crime. The criminal justice system's past emphasis on the perpetrator illustrated the need for attention to the victims' needs. A dichotomy has been established between victim and perpetrator.

In the cases of sexual abuse and family violence, however, this dichotomy is less clear. A person who molests a child as the result of generations of incest falls into both categories as victim and offender. The documented history of sexual abuse within boarding and residential schools, forms the basis of several generations of victimization. While federal legislation regarding VOCA is clear that only victims of crime can be served by VOCA funded programs, an individual's status as perpetrator/victim is less distinct. Many programs are faced with the dilemma of policy prohibitions regarding the delivery of services to a sexual offender or batterer who seeks assistance due to his/her history of victimization and tribal values mandating the provision of assistance to those seeking help.

The issue of Tribal Sovereignty is fundamental to how tribes conduct themselves and vital to the future of tribes. Federal programs which grant money to the state for pass through to tribes conflict with the reality of Indian Nations as sovereign nations. Some Indian Nations have a history of conflictual relationships with state government. Direct funding of tribal programs without the state pass through is seen by tribes as a necessary step in developing a Nation to Nation relationship with the federal government. The historical underpinnings to this issue are beyond the scope of this monograph. Both historical

treatment and present day relationships impact, not only the tribe's willingness to work with the state in obtaining funding, but the state's receptivity to seeking funding on behalf of the Indian Nations within their borders.

A tribe, for example, may feel that there is no reason to discuss their problems with crime on the reservation with the state. Particularly if state officials have a history of negative relationships with the tribe or making derogatory comments about Indian people: and especially where there is little or no state jurisdiction over crimes in Indian Country. Tribal officials may believe that sharing information regarding the incidence of crime within their community may be used in a negative manner by the state. However, the current funding procedures for victim assistance programs involves the states applying for funding on behalf of the tribe(s) within the state. This situation means that if a tribal government does not want to provide data to the state about the incidence of crime in their community, they cannot receive funding for a victim assistance program. There is no mechanism for the tribe to apply directly to OVC for funding of a victim assistance program. This type of situation undermines the concept of tribal sovereignty.

Some state Victim Assistance Coordinators have attempted to address this issue by including the tribe in the preparation of proposals to the federal government. The tribe must be included in every aspect of state proposals on the tribe's behalf. Beyond these grants, states must have a mechanism for tribal input into all grants which could potentially benefit tribes, not just Indian specific grants. For states or local governments which have advisory boards, review committees, or other citizen-based organizations which develop, submit, and review grant proposals, Indian representation and participation is essential.

A second area of concern involves the arena of training. Tribal representatives need to be involved in all types of victim oriented training. Tribal people may not be included on planning committees unless the training is aimed at Indian people. State training events must be relevant to victim service providers working with Native American clients. When Native American people are included on planning committees, they may be included whether or not they have direct hands-on experience or have lived on the reservation.

In one state, for example, the planning committee of a state-wide victim conference contacted the local university and utilized a Native American professor on their committee. This person did not deliver services on the reservation and had not lived on the reservation for over 20 years. Although she provided valuable input to the planning of the conference, other useful information would have been gathered from the inclusion of someone working with victims on a reservation. While the university professor may have been easily accessible, her input included a limited vision.

A Native American person will always bring their own perspective as a Native person to a every situation. It is important to consider a person's experiences and connection to the community as well as their background in selecting the most useful member of a planning committee.

Native American communities exist in both urban and rural locales. Trainings which focus on service provision only for victims in urban areas are often not relevant or helpful to service providers working in geographically isolated reservation communities. Trainers at



conferences may not be culturally sensitive or knowledgeable about the complex array of jurisdictional issues which impact service delivery to federal victims of crime. This lack of sensitivity or knowledge leads to Native American service providers feeling devalued and unimportant. Workers cannot get their needs met when presenters are ignorant of the realities of providing victim assistance services on the reservation.

There is a need to incorporate Native American service providers and cross-cultural issues in all training events. Training sessions which focus on the needs of Native Americans and those working in Indian Country are important and useful for people to share common experiences and address the unique needs of their programs. There must be careful consideration given to treating Indian programs in a separate but equal manner. Trainings focusing on issues related to service provision in Indian Country should not be viewed as replacing the inclusion of issues important to Indian people in more general victim services training sessions. The inclusion of Native American victim services issues in a general conference must also be undertaken in a sensitive manner. It is clearly offensive to have a panel discussion entitled "Special Populations: Serving Native American and Physically Challenged Victims of Crime." Native Americans are not a special population. Yet such panels are taking place in trainings.

It is incumbent upon training coordinators and conference planners to seek out Native American people to serve on planning committees. Similarly, federal personnel overseeing training contracts must ensure that their grantees include a culturally diverse planning group representing the populations to be served.

Inclusion of Native American participants on planning committees can also be cost efficient. Recently a locality held a training on gangs. Although this topic is of great concern to both Native Americans and non-Native Americans, no effort was made to invite participants from the local reservations. The result is a duplication of training efforts by holding separate trainings for Native and non-Native audiences when a single training effort would suffice. In a time of limited training funds, efforts must be made to maximize the utility of available funds.

It is also necessary for training to be provided on an on-going basis. Indian country programs often experience high levels of staff turnover. The lack of consistency in staff often means that when a person leaves their position, their knowledge leaves with them. Modern technology, where available, may help to alleviate this problem. Programs should be provided with the resources to document their training activities.

Videotaping of training sessions is one mechanism for making training available to new personnel. When training sessions are held on the reservation, the availability of equipment to videotape the training can make the information available to future employees. Similarly, programs can be encouraged to develop manuals providing new employees with a historical overview of the project and with information on how to perform the functions of their position. Funding earmarked for the development of such manuals would definitely assist tribes in their ability to develop these resources.

There is currently an increased focus on building the tribal/state/federal relationship and the coordination of services for victims of crime. It is often assumed that the most

difficult part of this equation is to get tribal participation. State and federal agencies may invite tribal representatives to participate in various meetings and discussions only to have no one from the tribes attend. The perception may be that state and federal agencies offer opportunities for participation only to be ignored.

There are alternative explanations however. Often, these types of meetings are held at the host agency. There is an expectation that if tribes want to participate, they will come to the offices of the state or federal agency hosting the meeting. In some cases those offices can be several hours away from the reservation. While a meeting in downtown Phoenix may be convenient for many state and federal employees, for example, such a meeting means a five-hour drive from the Hopi reservation and further drives from other reservations in the state. Simple logistics may preclude tribal participation in such efforts. An hour long meeting may not interrupt someone's day who is located within a half an hour drive from the meeting location. Such a meeting takes up an entire day or even a day and a half for someone located far away.

It is not unreasonable that, on occasion, state and federal employees be expected to travel to a location convenient for the tribal representatives. During on-site visits for OVC, state and federal employees are usually invited to participate. Frequently it is the case that these employees cannot attend the on-reservation trainings because of the distance and time involved to get to the reservation. Tribal/state/federal coordination is a two-way street. Efforts must be extended by all parties. It is unfair to always expect tribal people to travel for the expedience of federal or state employees. State and federal personnel must be willing and able to travel to the reservations in their jurisdictions as well as expecting tribal employees to travel to attend meetings.

It is impossible to ignore the historical fact that "outsiders" have repeatedly come into Indian Country to tell tribes what the tribes need. From federal Indian Agents to BIA Agency Superintendents, representatives from the federal government have controlled policy and implemented their own procedures for service delivery. Every federal and state employee is a representative of the governments which have historically ignored the needs of Indian people and implemented policies regardless of the feelings of the people being impacted.

Non-Indian trainers may experience a lack of acceptance by tribal members, especially if the trainer is unaware of the realities of life on the reservation. There are many differences between offering services to victims of crime on the reservation and those in the city. A trainer who is used to working in a metropolitan area, rich in services may not be able to offer useful training to a small, rural reservation community, lacking in services.

Similarly, psychological and counseling theories which are based on Anglo perceptions and world views may not apply to Native American clients. There are a myriad of factors which influence Native American victims of crime of which a typical victim service provider or trainer may be unaware: historical grief, discrimination, lack of access to education, poverty, cultural disruption/conflict, tribal sovereignty, federal trust responsibilities. While these issues do not appear directly relevant to victimization, they may influence many aspects of a person's life, including their response to being a victim of crime.

A third important consideration is the influence of spirituality in the lives of many Native American people. Spirituality is a broad term which encompasses both religious beliefs and practices as well as a sense of self in relation to the natural world. Spirituality, especially as conceptualized in terms of religion, has been a controversial area. Religion has historically been used as a means of "civilizing" Indians. Missionaries expended great efforts to "save" the savage Indians indigenous to the United States.

Conversion from "heathen" traditional religious practices to Christianity formed the basis of much federal policy during the past 500 years. Indian children were forced to attend boarding schools run by various Christian denominations. Often Indian children were taught that their spiritual beliefs were evil and that Christianity would be the key to their salvation. Forced religious conversions were commonplace.

The forced removal of Indian children to boarding schools meant that children were not able to participate in their spiritual traditions at home. For example, adolescents could not be initiated into religious societies because they were living off-reservation and did not receive the lessons necessary to fulfill their obligations. The punishment of Indian children for speaking their native language led to children unable to speak their language. Participation in traditional religious ceremonies requires an ability to speak one's language.

For many Native people, their spiritual beliefs form the foundation of their entire way of life. Service providers who do not understand either the centrality of spirituality or the importance of participation in certain ceremonial events may cause their clients additional trauma. Workers at a domestic violence shelter, for example, may not understand why a woman insists on returning home to participate in a specific spiritual activity. Shelter rules may prohibit her from returning to the shelter if she leaves overnight, yet her responsibilities within her community may demand that she perform certain tasks over a period of days. She may find herself in the position of having to choose between the safety of the shelter and her religious obligations at home.

Spirituality is an often ignored aspect of assisting victims to heal. Non-Indian service providers may not be aware of the importance of integrating spiritual healing into their services. Native victims of crime may feel that a program which does not address their spiritual needs is not going to be helpful to them. Non-Indian service providers who understand this need may feel that they are not competent to address the spirituality issue and therefore they ignore this dimension.

Integration of tradition healing into a victim services program may pose difficulties, especially if the program serves both Native American and non-native women. It is incumbent upon victim service providers to work with their local Native American communities to develop effective, comprehensive programs for their Native American clients.

The Office for Victims of Crime has undertaken several initiatives in the recent past to improve the delivery of services to victims of crime in Indian country. These initiatives have both improved services and identified the difficulties of attempting to integrate programs developed for non-Indians into Indian communities. Traditional values have enabled Indian people to survive for thousands of years. These values must be respected. The challenge for non-Indian service providers, grant monitors, program developers, and decision-makers, is to

educate themselves and to learn how to respect vital components of tribal life, such as sovereignty and spirituality and how to integrate the sometimes competing demands of federal mandates and tribal values.

# LESSONS FROM THE THIRD SOVEREIGN: INDIAN TRIBAL COURTS

by Hon. Sandra Day O'Connor

**T**oday, in the United States, we have three types of sovereign entities—the Federal government, the States, and the Indian tribes. Each of the three sovereigns has its own judicial system, and each plays an important role in the administration of justice in this country. The part played by the tribal courts is expanding. As of 1992, there were about 170 tribal courts, with jurisdiction encompassing a total of perhaps one million Americans.

Most of the tribal courts that exist today date from the Indian Reorganization Act of 1934. Before the Act, tribal judicial systems were based around the Courts of Indian Offenses, which were set up in the 1880's by the federal Office of Indian Affairs. Passage of the Indian Reorganization Act allowed the tribes to organize their governments, by drafting their own constitutions, adopting their own laws through tribal councils, and setting up their own court systems. By that time, however, enormous disruptions in customary Native American life had been wrought by factors such as forced migration, settlement on the reservations, the allotment system, and the imposition of unfamiliar Anglo-American institutions. Consequently, in 1934, most tribes had only a dim memory of traditional dispute resolution systems and were not in a position to recreate historical forms of justice. Swift replacement of the current systems by traditional dispute-settling institutions was not possible. Therefore, while a few tribes, such as the New Mexico Pueblos, have "traditional courts" based on Indian custom, most modern reservation judicial systems do not trace their roots to traditional Indian fora for dispute resolution. Rather, because the tribes were familiar with the regulations and procedures of the Bureau of Indian Affairs,

that model provided the framework for most of the tribal courts. Nevertheless, many tribes today attempt to incorporate traditional tribal values, symbols, and customs into their courtrooms and decisions. Some tribal courts, in proceedings that otherwise differ little from what would be seen in State or Federal court, have incorporated traditional features of Indian dispute-resolution to try to infuse the proceedings with values of consensus and community. For example, the placement of litigants and court personnel in a circle aspires to minimize the appearance of hierarchy and highlight the participation and needs of the entire group in place of any one individual.

The tribal courts, while relatively young, are developing in leaps and bounds. For example, many tribes are working to revise their tribal constitutions and to codify their civil, regulatory, and criminal laws to provide greater guidance and predictability in tribal justice. At the same time, tribes have expanded the use of traditional law. Many tribal codes now combine unique tribal law retribution and on keeping harmonious relations among the members of the community. To further these traditional Native American values, tribal courts may employ inclusive discussion and creative problem-solving. The focus on traditional values in contemporary circumstances has permitted tribal courts to conceive of alternatives to conventional adversarial processes.

The development of different methods of solving disputes in tribal legal systems provides the tribal courts with a way both to incorporate traditional values and to hold up an example to the nation about the possibilities of alternative dispute resolution. New methods have much to offer to the tribal communities, and much to teach the other

court systems operating in the United States. For about the last fifteen years, in recognition of the plain fact that the adversarial process is often not the best means to a fair outcome, both the State and Federal systems have turned with increasing interest to the possibilities offered by mediation, arbitration, and other forms of alternative dispute resolution. In many situations, alternative methods offer a quicker, more personal, and more efficient way of arriving at an answer for the parties' difficulties.

The special strengths of the tribal courts—their proximity to the people served, the closeness of the relations among the parties and the court, their often greater flexibility and informality—give tribal courts special opportunities to develop alternative methods of dispute resolution. Many of the issues which come most frequently to tribal courts lend themselves to alternative methods of resolution. For example, vital issues touching on domestic relations, child custody, probate, tort, and criminal prosecutions, may be solved more satisfactorily using a non-adversarial method. A cooperative process is particularly useful where family issues, particularly related to children, are involved, because the process helps the parties to work together to arrive at a fair and workable solution. An adversarial process, in contrast, may worsen the strains between members of the family, and create new conflicts to fuel the old. Too, family problems lend themselves to methods of resolution shaped by the particular character of individual tribal courts, because family issues—involving child custody, juvenile crimes, marriage, and inheritance—are ones where tradition provides a critical guidance for social behavior.

Many tribal courts have already developed methods that meet the needs of their communities and use the underlying traditions and values to the extent possible. A good example is the Navajo Peacemaker Court, which was formed in 1982 by the Judicial Conference of the Navajo Nation to provide a forum for traditional mediation. The Navajo Peacemaker Court is now an active,

modern legal institution which incorporates traditional Navajo concepts into a judicial process for dispute resolution. The process is directed by a mediator, who acts to guide and encourage parties to resolve their dispute. The process relies on parties' participation and commitment to reaching a solution, rather than on the imposition of a judgment by an impersonal decision maker. The Navajo Peacemaker Court successfully blends beneficial aspects of both Anglo-American and Indian traditions.

The Northwest Intertribal Court System, a consortium of 15 tribes in the Pacific Northwest, was set up in 1979 to provide court services and personnel to the individual tribal courts of member

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*“...tribal courts may set out the paradigm for other courts to follow.”*

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tribes. Several of the member tribes have supplemented their formal tribal court system with Peacemaker programs that are based on traditional values of consensus and respectful attention to individuals.

The Indian communities' interest in the development of alternatives for dispute resolution has led to the development of the Indian Dispute Resolution Services, a group formed about six years ago to provide training in conflict resolution. That organization is helping Indian communities to settle unresolved disputes around the country and to provide fair and timely outcomes for parties.

Mediation can be effective not only within a tribal community, but also between the tribe and other groups. The Native American Heritage Commission and the Community Relations Service of the United States Department of Justice have collaborated on several mediation cases involving the repatriation of Indian remains. Some mediations took place between tribes and developers who had discovered remains at construction sites; others took place between tribes and universities that wanted

the remains for academic research. Mediation worked to settle successfully the many conflicts that arose over the proper treatment and assignment of such ancestral remains and funerary objects.

The development of methods of alternative dispute resolution may help tribal courts to expand the exercise of their authority over more civil cases. Historically, the great majority of cases heard in tribal courts involves criminal matters, with relatively few civil disputes decided. This might reflect the time and expense required for civil cases, the courts' reluctance to handle civil cases because of a lack of familiarity or advanced legal training, or perhaps because tribal courts serve a less

litigious community. Development of alternative methods of dispute resolution allows the tribal courts to take advantage of their strengths in order to provide efficient and fair resolution of such conflicts. It is to be hoped

that the tribal courts will continue to explore additional possibilities for alternative methods of dispute resolution. These methods need not be limited in scope to disputes within a tribe, but could be used also to resolve conflicts between one tribe and another, and between a tribe and the State and Federal government, political units, private investors, or contractors. At its best, such a method would provide a cooperative, relaxed forum for the conclusion of disputes, with use of a process that would include all interested parties to ensure their involvement and their consent; and, at the same time, offer important practical advantages by accomplishing its tasks more agreeably, more quickly, and less expensively than the adversarial mode. By expanding such techniques, the tribal courts may set out the paradigm for other courts to follow.

While tribal courts seek to incorporate the best elements of their own customs into the courts' procedures and decisions, the tribal courts have also sought to include useful aspects of the Anglo American tradition. For example, more and more tribal judicial systems have established mechanisms

to ensure the effective appealability of decisions to higher courts. Too, some tribes have sought to provide tribal judiciaries with the authority to conduct review of regulations and ordinances promulgated by the tribal council. And one of the most important initiatives is the move to ensure judicial independence for tribal judges. Tribal courts are often subject to the complete control of the tribal councils, whose powers often include the ability to select and remove judges. Therefore, the courts may be perceived as a subordinate arm of the councils rather than as a separate and equal branch of government. The existence of such control is not conducive to neutral adjudication on the merits and can threaten the integrity of the tribal judiciary. Some tribes, like the Cheyenne River Sioux Tribe in South Dakota, have amended their constitutions to provide for formal separation of powers.

A vital improvement made by tribal judicial systems is the growing number of law-trained, well-prepared people participating in the system, both as lawyers and judges. Many tribal judges have taken steps to craft ethical guidelines and to institute tribal bar requirements for the lawyers who practice before them, and have participated themselves in further training for the task of judging. Both lawyers and judges must be knowledgeable and principled

if the tribal judicial systems are to engender confidence in the fairness and integrity of their courts. Whether in tribal court, state court, or federal court, the exercise of a court's jurisdiction is a serious matter, and all persons—Indian and non-Indian—who come before a court are entitled to just and reasoned proceedings.

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The judicial systems of the three sovereigns—the Indian tribes, the federal government, and the states—have much to teach one another. While each system will develop along different lines, each can take the best from the others. Just as "a single courageous State may, if its citizens choose, serve as a labora-

tory,"<sup>1</sup> for the development of laws, the experiments and examples provided by the various Indian tribes and their courts may offer models for the entire nation to follow. To give but one example, the Navajo Peacemaker Court has been studied not only by officials within this country, but also from Australia, New Zealand, Canada, and South Africa, for possible use. The Indian tribal courts' development of further methods of dispute resolution will provide a model from which the Federal and State courts can benefit as they seek to encompass alternatives to the Anglo-American adversarial model. And, while tribal courts currently seek to expand the role of traditional law in their judicial systems, they may well choose to incorporate some of the features of the Anglo American system, such as access to an effective appeal and the independence of the judiciary.

The role of tribal courts continues to expand, and these courts have an increasingly important role to play in the administration of the laws of our nation. The three sovereigns can learn from each other, and the strengths and weaknesses of the different systems provide models for courts to consider. Whether tribal court, state court, or federal court, we must all strive to make the dispensation of justice in this country as fair, efficient, and principled as we can.

<sup>1</sup>*New State Ice Co. v. Liebmann*, 285 U. S. 262 at 311, 76 L. Ed. 747, 52 S. Ct. 371 (1932). (Brandeis, J., dissenting).

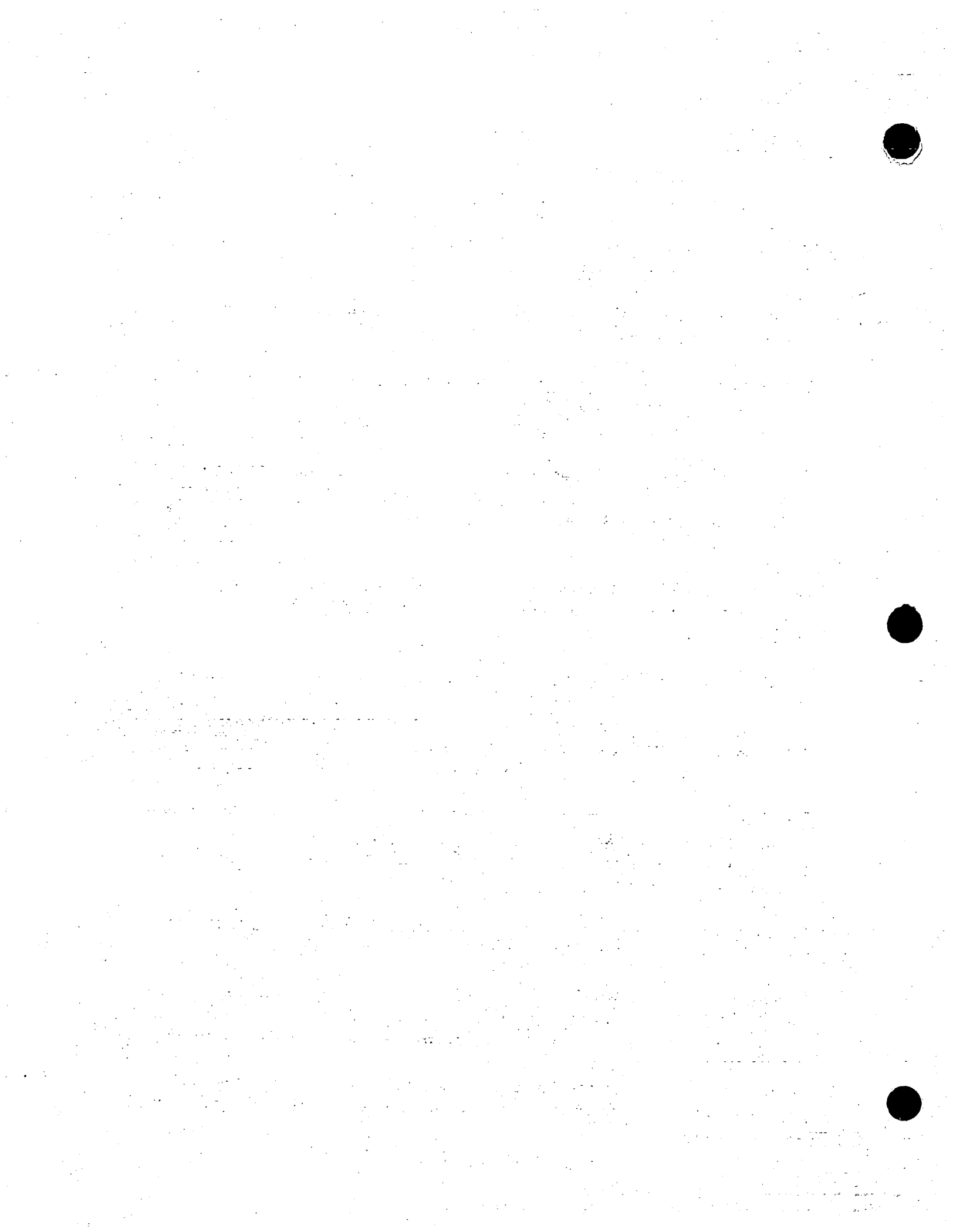


## TOP TEN ACTIONS CORRECTIONAL AGENCIES CAN TAKE TO PROMOTE VICTIM SERVICES

*In 1997, the Association of State Correctional Administrators (ASCA) Victims Committee identified ten core elements for corrections-based victim services:*

1. Incorporate victims' rights and needs into the overall agency mission statement, and develop a mission/vision statement specifically for victim services.
2. Designate a full-time staff person to plan and implement a comprehensive victim services program, and victim service representatives at institutions and regional offices to augment the agency's centralized victim services.
3. Provide core services to victims of crime that include: notification of offender status; protection from intimidation, harassment and harm; victim input into parole proceedings; victim restitution; and information and referral to supportive services in the community.
4. Create a Victim Advisory Council (comprised of victims and practitioners from corrections, victim services and allied professions) to guide program implementation.
5. Establish written policies and procedures for victims' rights and services.
6. Develop a public information plan and outreach program that describes the services and assistance provided to victims by the agency, including an informational brochure and training curriculum for victim service and allied justice professionals.
7. Develop and utilize a training curriculum for orientation and continuing education for all agency staff on victims' rights and needs, agency services and related policies, legislative mandates, and national/state/community-based services for information and referral.
8. Develop and implement policies, procedures and protocols on how to respond to incidents when correctional staff are victimized on- or off-the-job.
9. Implement the "Impact of Crime on Victims" program to help offenders understand the impact their crimes have on their victims, communities, and families, utilizing the curricula and related resources available from the California Youth Authority.
10. Designate an agency representative to participate in local, state and regional victim service coalitions, and serve as the agency's liaison to the victim service community.





**THE MAJOR NEEDS OF CRIME VICTIMS  
FROM CORRECTIONAL AGENCIES\***

1. SAFETY AND SECURITY
2. VENTILATION AND VALIDATION
3. PREDICTION AND PREPARATION
4. EDUCATION AND INFORMATION

## SAFETY AND SECURITY

1. LEARN ALL YOU CAN ABOUT DIFFERENT CRIMES AND THE POSSIBLE RANGE OF VICTIM REACTIONS.
2. INDIVIDUALIZE EACH:
  - A. CRIME
  - B. VICTIM(S)
  - C. SITUATION
3. EXPLAIN:
  - A. WHO YOU ARE.
  - B. YOUR ROLE IN THE CASE
  - C. YOUR AGENCY'S ROLE AND FUNCTIONS.
  - D. YOUR AND YOUR AGENCY'S RELATIONSHIP TO THE OFFENDER.
4. GIVE VICTIMS AS MUCH CONTROL AND DECISIONMAKING AS POSSIBLE.
  - A. VALIDATE THEIR ABILITY TO HAVE CONTROL AND TO MAKE DECISIONS RELATED TO THEIR CASE.

5. BEFORE MEETING WITH VICTIMS:
  - A. EXPLAIN WHERE YOU ARE ("A SAFE ENVIRONMENT")
  - B. WHO CAN THEY BRING?
  - C. WHAT SHOULD THEY BRING RELATED TO THEIR CASE OR VIS?
  - D. HOW LONG WILL THE MEETING TAKE?
  - E. CLEARLY DEFINE THE PURPOSE OF THE MEETING:
    - o PSI INFORMATION
    - o VICTIM IMPACT STATEMENT
    - o PAROLE HEARING
    - o PAROLE CONDITIONS
  
6. NEVER ASSUME VICTIMS KNOW THE OFFENDER WILL NOT BE PRESENT!
  
7. RECOGNIZE YOU MAY BE A "TRIGGER" FOR VICTIMS:
  - A. YOU MAY REPRESENT THE CRIME.
  - B. YOU MAY REPRESENT THE CRIMINAL.
  - C. YOU MAY REPRESENT THE VICTIM'S UNFAIR TREATMENT BY THE CRIMINAL JUSTICE SYSTEM.
  
8. CLARIFY YOUR ROLE IN PROVIDING SAFETY AND SECURITY TO:
  - A. VICTIMS
  - B. THE GENERAL PUBLIC.

9. ALWAYS PROVIDE YOUR NAME AND TELEPHONE NUMBER FOR FOLLOW-UP.
  
10. EXPLAIN ANY VICTIMS' RIGHTS RELATED TO SAFETY AND SECURITY, SUCH AS:
  - A. PROTECTIVE ORDERS.
  - B. PROTECTION FROM INTIMIDATION, HARASSMENT OR HARM.
  - C. "STALKING" LAWS.
  - D. PREVENTING HANDGUN PURCHASES.

## VENTILATION AND VALIDATION

1. ALWAYS ALLOW VICTIMS TO TALK... VENTILATE... AND EXPRESS THEIR FEELINGS.
  
2. REINFORCE THAT VICTIM INPUT IS:
  - A. IMPORTANT TO YOU PROFESSIONALLY; AND
  - B. IMPORTANT TO CASE DISPOSITION.
  
3. ACKNOWLEDGE:
  - A. ANY PAST DIFFICULTIES THE VICTIM MAY HAVE HAD WITH THE CJS.
  - B. POSSIBLE VICTIM TRAUMA.
  - C. THAT "THE SYSTEM ISN'T PERFECT."

- o EXPRESS YOUR DESIRE TOWARD AND ROLE IN IMPROVING THE SYSTEM.
4. ASK UP-FRONT: "HOW DID THE CRIME AFFECT YOU AND YOUR FAMILY?"
  5. VALIDATE VICTIMS' ANGER DIRECTED AT:
    - A. THE OFFENDER.
    - B. THE CRIMINAL JUSTICE SYSTEM.
    - C. SOCIETY.
      - o VALIDATE ALSO THAT YOU UNDERSTAND THEIR ANGER MAY BE DIRECTED AT YOU.
  6. BE HONEST ABOUT ANY FEELINGS, I.E. NERVOUSNESS, ANXIETY, OR FEAR, YOU MAY HAVE SPEAKING TO THE VICTIM.
  7. NEVER SAY: "I UNDERSTAND."
  8. ALWAYS ASK: "WHO ELSE HAVE YOU TALKED TO?"

9. PRACTICE ACTIVE LISTENING SKILLS (REFER TO FLETC HANDOUT):

- A. LOOKING.
- B. NODDING.
- C. SUMMARIZING.
- D. CLARIFICATION.
- E. EYE CONTACT.
- F. ALLOWING SILENCE.

10. USE BASIC VALIDATION SKILLS:

- A. GIVE YOUR NAME.
- B. USE VICTIM'S NAME (AFTER DETERMINING HOW THE VICTIM WISHES TO BE ADDRESSED).
- C. SAY:
  - o I'M SORRY.
  - o IT'S NOT YOUR FAULT.
  - o YOUR INPUT IS VALUED AND IMPORTANT.

**PREDICTION AND PREPARATION**

- 1. EXPLAIN LACK OF "TRUTH IN SENTENCING."
- 2. ASK VICTIMS: "WHAT DO YOU WANT TO HAPPEN?"

3. THEN ASK VICTIMS: "WHAT DO YOU THINK WILL HAPPEN?"
  
4. EXPLAIN PARAMETERS OF:
  - A. OFFENDER SUPERVISION.
  - B. COMMITMENT.
  - C. WHEN SUPERVISION ENDS.
  - D. ANY VICTIMS' RIGHTS RELATED TO  
# 4 A-C.
  
5. ENCOURAGE VICTIM INPUT AND VALIDATE THAT INPUT.
  
6. PAROLE AND PROBATION:
  - A. EXPLAIN THE DIFFERENCE BETWEEN THE TWO.
  - B. IDENTIFY WHO IS THE PROBATION OR PAROLE OFFICER.
  - C. PROVIDE VICTIM WITH OFFICER'S:
    - o NAME
    - o ADDRESS
    - o TELEPHONE NUMBER
    - o WHERE OR WHO TO CALL IN CASES OF EMERGENCY
  - D. EXPLAIN CONDITIONS OF PROBATION AND PAROLE:
    - o LOCATION OF OFFENDER.
    - o ANY APPLICABLE TREATMENT PROGRAMS.
    - o RESTITUTION (BE REALISTIC!).



- o ISSUES RELATED TO VICTIM PROTECTION.
  - o WHAT HAPPENS WITH VIOLATIONS?
  - o ANY VICTIMS' RIGHTS OR RECOURSE RELATED TO THE CONDITIONS OF PROBATION AND PAROLE.
7. RESTITUTION (AT SENTENCING -- THROUGH THE DEPARTMENT OF CORRECTIONS -- AT/AFTER PROBATION OR PAROLE)
- A. WHO COLLECTS?
  - B. WHO DISBURSES?
  - C. PAYMENT SCHEDULE.
  - D. WHAT HAPPENS IN THOSE RARE CASES OF NON-PAYMENT?
  - E. REMEDIES.
    - o CRIMINAL.
    - o ADMINISTRATIVE
    - o CIVIL
8. ENCOURAGE AND VALIDATE VICTIMS' SHORT- AND LONG-TERM CONCERNS!
9. PERHAPS MOST IMPORTANT, BEING REALISTIC IS CRUCIAL TO HELPING VICTIMS PREDICT AND PREPARE FOR THE FUTURE!

## INFORMATION AND EDUCATION

1. RECOGNIZE MOST VICTIMS DO NOT UNDERSTAND THE CRIMINAL JUSTICE SYSTEM AND CORRECTIONS.
2. PROVIDE INFORMATION ABOUT THE SYSTEM:
  - A. DIFFERENT AGENCIES.
  - B. THE ROLES AND RESPONSIBILITIES OF EACH AGENCY.
  - C. HOW THEY INTERACT (OR DO THEY INTERACT?)
  - D. KEY PLAYERS.
3. ALWAYS PUT INFORMATION IN WRITING:
  - A. KEEP IT SIMPLE.
  - B. KEEP IT IN LAYPERSON'S TERMS.
4. KNOW EXACTLY WHAT VICTIMS NEED TO KNOW!
5. KNOW VICTIMS' RIGHTS IN YOUR STATE:
  - A. STATUTORY RIGHTS.
  - B. CONSTITUTIONAL RIGHTS.
  - C. RIGHTS AFFORDED BY CJS AGENCY POLICIES.

6. BE AWARE OF AND EDUCATE VICTIMS ABOUT EFFORTS TO STRENGTHEN CRIME VICTIMS' RIGHTS:
  - A. LOCALLY.
  - B. STATEWIDE.
  - C. NATIONALLY.
  
7. ALWAYS EXPLAIN WHAT YOU CAN AND/OR WILL DO. NEVER ASSUME THE VICTIM KNOWS THIS.
  
8. WHEN POSSIBLE, PROVIDE WRITTEN EDUCATIONAL RESOURCES, AS WELL AS REFERRALS (SEE TOLL-FREE NUMBERS).

\* The four categories for "the major needs of crime victims" were developed by the National Organization for Victim Assistance, with corrections-specific recommendations developed by public safety consultant Anne Seymour.

# Advocacy for victims' rights, staff training urged

## TCA adopts position concerning crime victims' issues

*During the Annual Conference in Galveston, the TCA Board of Directors unanimously endorsed a position on crime victims' issues within Texas' correctional systems. The association's stance should serve as a practical blueprint for action, as well as an ideal toward which individual correctional agencies and professionals may strive. By adopting the position presented below, the Texas Corrections Association demonstrates its firm commitment to justice for all Texans, including those harmed by crime.*

*—Jim Sinclair, Chair,  
Victims' Issues Committee*

### TEXAS CORRECTIONS ASSOCIATION'S POSITION ON VICTIMS' ISSUES

#### Definitions:

• **victim of crime** — a person who has been harmed physically, financially, or emotionally by the illegal actions of another

• **restorative justice** — a model which, among other tenets, recognizes crime's impact on the victim and community, promotes offender accountability, involves the victim in solutions, and seeks to repair the harm done by crime

Historically, the attention of corrections, both in the adult and juvenile criminal justice systems, has been almost exclusively focused on the criminal offender. A narrow, legalistic view of corrections, its mission and functions, has too often built a wall between corrections professionals and those harmed by crime, namely the individual victims of crime and the public as a whole. Adult and juvenile criminal matters and subsequent dispositions tend to be seen as matters between the offender and the state, with the result that victims of crime and citizens of the community get lost in the shuffle. Billions of dollars flow endlessly from public coffers to feed, house, educate, counsel, detoxify and train thousands of offenders toward a

better life, while victims of crime are, for the most part, left to their own devices.

Fortunately in recent years, a change in attitude has been taking place. As a result of legislative activism by victims and advocacy groups, criminal justice systems are slowly beginning to realize how unbalanced the scales of justice have been. While police and prosecutorial agencies have had dialogue with victims for several years, corrections is now beginning to educate itself on victims' issues, and starting to deliver services to victims of crime.

The Texas Corrections Association has long been an advocate of progressive correctional practice. Drawing its strength from a membership representative of both institutional and community corrections, TCA has consistently sought to balance the needs of offenders with protection of and advocacy for the community affected by crime. The association's current involvement on behalf of victims of crime reinforces its stature as a body always seeking to make our communities safer and better places in which to live.

TCA's position on victims' issues, although featuring many specific points and proposals, is both simple and straightforward. The association believes that victims of crime deserve no less than always to be treated with respect and dignity by corrections professionals. In recognition of the historical exclusion of crime victims from criminal justice systems, TCA also advocates aggressive initiatives, to secure and further the legal rights of victims and survivors on both legislative and policy levels. Furthermore, TCA is committed to advancing knowledge of victims' issues among its membership and helping to foster an attitude always cognizant of the fact that crime victims have not freely chosen their participation in criminal justice systems. Finally, TCA embraces the ethic of restorative justice, which seeks fully to involve crime victims as allies and part-

ners in systems expecting offenders to assume responsibility and accountability for their actions. In this effort, TCA believes that when all is said and done, the healing of crime-inflicted wounds on individuals and the community comes not from "systems" but from people reaching out to one another as individuals and concerned groups.

Listed below are specific initiatives which TCA believes will make our corrections practices more equitable to victims of crime and the entire community. Some can be done without delay. Others will need funding and enabling legislation. All will require dedication and commitment from corrections professionals who have come to realize that, in order for there to be any hope of lasting and positive change in our fields of endeavor, no one in the community, least of all crime victims, can be excluded from the quest for justice.

#### Corrections agencies should:

- I. Listen to victims of crime
  - A. Seek input from victims for the presentence and predisposition reports, including victim impact statements
  - B. Encourage victims to contact agencies for information and assistance
  - C. Involve victims and victims' groups in designing victim service programs
  - D. Encourage victims to participate in the adult and juvenile parole hearing processes
- II. Provide information to victims of crime
  - A. Share data among agencies so that consistent information is obtained by the victim
  - B. Provide material to victims which explain the criminal/community justice system
  - C. Contact victims to provide

*continued on page 14*

# Victims' Issues

continued from page 13

specific information such as the following:

1. Furlough of an inmate or juvenile
  2. Release from custody, or release from probation or parole supervision
  3. Escape from custody
  4. Death of an offender
- D. Provide at request of victims:
1. Offender's legal status
  2. Community where offender resides
  3. Identity of offender's supervising agency/officer
  4. Charges in supervision status
  5. Court and/or administrative board hearings, including revocation
- III. Provide services to victims of crime
- A. Recognize services to crime victims in agency/organization mission statements
  - B. Have formal, written policies and procedures related to crime victim services
  - C. Appoint staff to serve as victim contact and liaison
  - D. Assist victims with referrals to other helping agencies
  - E. Contact and coordinate with the Victims' Compensation System when necessary at the predisposition stage
  - F. Develop programs to respond to issues of staff victimization
- IV. Assist victims of crime through offender programming and accountability
- A. Protect victims from further harm or harassment through vigorous enforcement of "no contact" conditions of supervision
  - B. Set collection and disbursement of crime victim restitution as first priority in offender fee payment
  - C. Utilize community service restitution programs
  - D. Utilize victim impact panels
  - E. Provide victim empathy training to offenders
  - F. Conduct staff training related to

victimization, the economic and social goals of crime victim services, and the practical aspects of administration and successful implementation of these programs

- G. Conduct victim sensitivity training for corrections professionals
  - H. Provide training on staff victimization
- V. Advocate legislation and practices throughout the criminal justice systems which will provide justice for victims of crime
- A. Seek funding for development and implementation of crime victim services
  - B. Promote accountability among agencies for delivery of those victim services mandated by law
  - C. Include victims in the plea-bargaining process
  - D. Establish truth in sentencing
  - E. Support and expand victims' rights to be present and heard at court and parole process appearances
  - F. Include correctional agencies' responsibilities in the Crime Victims' Bill of Rights
  - G. Facilitate crime victims' access to a single point of service in each criminal justice agency (e.g., case manager position)
  - H. Develop safeguards for the confidentiality of victims' personal information
  - I. Advise crime victims of their rights at the earliest stages of criminal justice system involvement
  - J. Examine existing law and policy to provide victims with more information concerning offender
  - K. Mandate offender payment for victim counseling
  - L. If necessary, garnish offenders' wages for payment of victim restitution
  - M. Allow restitution to become a civil judgment
  - N. Enforce mandatory and timely testing of new sex offenders for HIV/STD and communication of

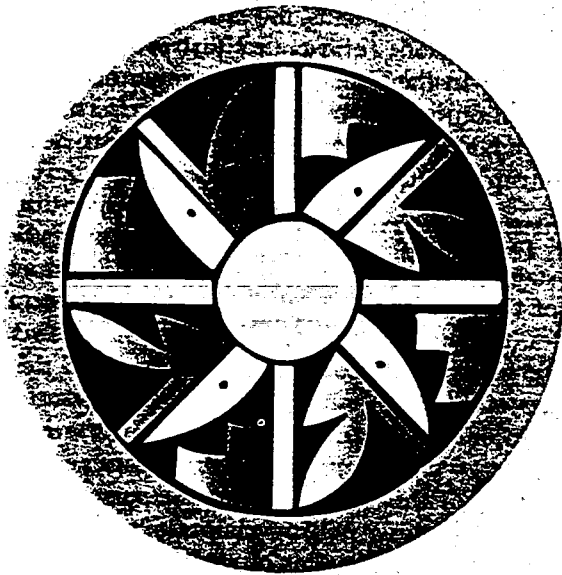
results to victims

- O. Allow for testing of HIV/STD on juveniles alleged to have committed sexual assault
- P. Transport the victim(s) to court or parole board appearances, in cases of hardship
- Q. Allow victim compensation for damages caused by persons younger than ten years of age

The Texas Corrections Association should endeavor to:

- Provide a minimum of one victims' issues workshop at each regional conference
- Provide a victims' issues training track at each annual conference
- Sponsor or co-sponsor other victims' issues training events
- Utilize the *TCA Journal* as a medium for exploration of crime victims' issues
- Distribute the *TCA Journal* to victims' groups
- Use other media (e.g., public access TV) for educating the public on victims' issues
- Provide training on offenders dealing with victims' issues





## Indigenous justice systems and tribal society

*Indigenous justice systems are based on a holistic philosophy. Law is a way of life, and justice is a part of the life process.*

*by Ada Pecos Melton*

In many contemporary tribal communities, dual justice systems exist. One is based on what can be called an American paradigm of justice, and the other is based on what can be called an indigenous paradigm.

The American paradigm has its roots in the world view of Europeans and is based on a retributive philosophy that is hierarchical, adversarial, punitive, and guided by codified laws and written rules, procedures, and guidelines.<sup>1</sup> The vertical power structure is upward, with decision making limited to a few. The retributive philosophy holds that because the victim has suffered, the criminal should suffer as well. It is premised on the notion that criminals are wicked people who are responsible for their actions and deserve to be punished.<sup>2</sup> Punishment

offer a reduction in future crime or reparation to victims.

In the American paradigm, the law is applied through an adversarial system that places two differing parties in the courtroom to determine a defendant's guilt or innocence, or to declare the winner or loser in a civil case. It focuses on one aspect of a problem, the act involved, which is discussed through adversarial fact finding. The court provides the forum for testing the evidence presented from the differing perspectives and objectives of the parties. Interaction between parties is minimized and remains hostile throughout. In criminal cases, punitive sanctions limit accountability of the offender to the state, instead of to those he or she has harmed or to the community.

The indigenous justice paradigm is based on a holistic philosophy and the

world view of the aboriginal inhabitants of North America. These systems are guided by the unwritten customary laws, traditions, and practices that are learned primarily by example and through the oral teachings of tribal elders.<sup>3</sup> The holistic philosophy is a circle of justice that connects everyone involved with a problem or conflict on a continuum, with everyone focused on the same center. The center of the circle represents the underlying issues that need to be resolved to attain peace and harmony for the individuals and the community. The continuum represents the entire process, from disclosure of problems, to discussion and resolution, to making amends and restoring relationships. The methods used are based on concepts of restorative and reparative justice and the principles of healing and living in harmony with all beings and with nature.<sup>4</sup>

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Points of view or opinions expressed in this article are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

1. Yazzie, *Life Comes From It: Navajo Justice Concepts*, LEGAL EDUCATION SERIES, ALTERNATIVES IN DISPUTE RESOLUTION AND TRADITIONAL PEACEMAKING (Petaluma, Calif.: National Indian Justice Center, 1993) and Falk, *International Jurisdiction: Horizontal and Vertical Conceptions of Legal Order*, 32 TEMPLE L. Q. 295 (1959).

2. Travis, *INTRODUCTION TO CRIMINAL JUSTICE*, SECOND EDITION (Cincinnati: Anderson Publishing Co., 1995) and Neubauer, *AMERICA'S COURTS AND THE CRIMINAL JUSTICE SYSTEM*, SECOND EDITION (Monterey: Brooks/Cole Publishing Company, 1984).

3. Yazzie, *supra* n. 1; Tso, *Decision Making in Tribal Courts*, 31 ARIZONA L. REV. (1989); and Zion, *Searching for Indian Common Law*, in Morse and Woodman, (eds.), *INDIGENOUS LAW AND THE STATE* (Forum Publications, 1988).

4. Yazzie, *supra* n. 1, at 4.

is used to appease the victim, to satisfy society's desire for revenge, and to reconcile the offender to the community by paying a debt to society. It does not



Tribal Judge Franklin James hugs Tlingit-Indian Adrian Guthrie (facing camera). In October 1995, the Snohomish County (Washington) Superior Court sentenced Guthrie and a robbery accomplice to prison after the two spent a year banished to the Alaska wilderness by a tribal court.

Restorative principles refer to the mending process for renewal of damaged personal and communal relationships. The victim is the focal point, and the goal is to heal and renew the victim's physical, emotional, mental, and spiritual well-being. It also involves deliberate acts by the offender to regain dignity and trust, and to return to a healthy physical, emotional, mental, and spiritual state. These are necessary for the offender and victim to save face and to restore personal and communal harmony.

Reparative principles refer to the process of making things right for oneself and those affected by the of-

fender's behavior. To repair relationships, it is essential for the offender to make amends through apology, asking forgiveness, making restitution, and engaging in acts that demonstrate a sincerity to make things right. The communal aspect allows for crime to be viewed as a natural human error that requires corrective intervention by families and elders or tribal leaders. Thus, offenders remain an integral part of the community because of their important role in defining the boundaries of appropriate and inappropriate behavior and the consequences associated with misconduct.

In the American justice paradigm,

separation of powers and separation of church and state are essential doctrines to ensure that justice occurs uncontaminated by politics and religion. For many tribes, law and justice are part of a whole that prescribes a way of life. Invoking the spiritual realm through prayer is essential throughout the indigenous process. Restoring spirituality and cleansing one's soul are essential to the healing process for everyone involved in a conflict. Therefore, separation doctrines are difficult for tribes to embrace; many find it impossible to make such distinctions. Whether this is good or bad is not the point. It is, however, an example of the

resistance of indigenous people to accept doctrines or paradigms that contradict their holistic philosophy of life.

### Law as a way of life

The concept of law as a way of life makes law a living concept that one comes to know and understand through experience. Law, as life, is linked to the elaborate relationships in many tribal communities. In some tribes it is exemplified by tribal divisions that represent legal systems prescribing the individual and kin relationships of members and the responsibilities individual and group members have to one another and to the community.<sup>5</sup> For example, in several Pueblo tribes, one is born into one of two moieties, or tribal divisions, decided by patrilineal lines. A woman can change membership only through marriage, when she joins her husband's moiety. Males generally cannot change their moiety, unless it is done during childhood through adoption or if their mother remarries into the opposite moiety. This illustrates how tribal law becomes a way of life that is set in motion at birth, and continues through an individual's life and death.

The indigenous approach requires problems to be handled in their entirety. Conflicts are not fragmented, nor is the process compartmentalized into pre-adjudication, pre-trial, adjudication, and sentencing stages. These hinder the resolution process for victims and offenders and delay the restoration of relationships and communal harmony. All contributing factors are examined to address the underlying issues that precipitated the problem, and everyone affected by a problem participates in the process. This distributive aspect generalizes individual misconduct or criminal behavior to the offender's wider kin group, hence there is a wider sharing of blame and guilt. The offender, along with his or her kinsmen, are held accountable and responsible for correcting behavior and repairing relationships.<sup>6</sup>

### Indigenous systems today

The status of tribes as sovereign nations are both preconstitutional and extraconstitutional. Tribes continue to possess four key characteristics of

their sovereign status: a distinctive permanent population, a defined territory with identifiable borders, a government exercising authority over territory and population, and

the capacity to enter into government-to-government relationships with other nation-states.<sup>7</sup>

The administration of justice, law, and order is a function of government



## Differences in justice paradigms

### **AMERICAN Justice Paradigm**

Vertical

Communication is rehearsed

English language is used

Written statutory law derived from rules and procedure, written record

Separation of powers

Separation of church and state

Adversarial and conflict oriented

Argumentative

Isolated behavior, freeze-frame acts

Fragmented approach to process and solutions

Time-oriented process

Limits participants in the process and solutions

Representation by strangers

Focus on individual rights

Punitive and removes offender

Prescribed penalties by and for the state

Right of accused, especially against self-incrimination

Vindication to society

This figure represents differences noted by Judge Christine Zuni, with additional differences outlined by the author.

5. Connors and Brady, "Alaska Native Traditional Dispute Resolution," paper presented at the National Conference on Traditional Peacemaking and Modern Tribal Justice Systems in Albuquerque, New Mexico, Tribal Justice Center, (1986).  
 "Indian Jurisprudence and Mediation the Indian Way: A Case Review of the Saddle Lake Tribal Justice System," paper presented at the Conference on Mediation in Winnipeg, Manitoba.

6. Melton, "Traditional and Contemporary

Tribal Law Enforcement: A Comparative Analysis." Paper presented at the Western Social Science Association, 31st Annual Conference in Albuquerque, New Mexico, (1989).

7. Valencia-Weber and Zuni, pre-publication draft, (1995). "Domestic Violence and Tribal Protection of Indigenous Women in the United States," to be published by *St. John's University Law Review*.





## INDIGENOUS Justice Paradigm

Holistic

Communication is fluid

Native language is used

Oral customary law learned as a way of life  
by example

Law and justice are part of a whole

The spiritual realm is invoked in ceremonies and prayer

Builds trusting relationships to promote resolution and healing

Talk and discussion is essential

Reviews problem in its entirety, contributing factors are examined

Comprehensive problem solving

No time limits on the process, long silences and patience are valued

Inclusive of all affected individuals in the process and  
solving problems

Representation by extended family members

Focus on victim and communal rights

Corrective, offenders are accountable and responsible for change

Customary sanctions used to restore victim-offender relationship

Obligation of accused to verbalize accountability

Reparative obligation to victims and community,  
apology and forgiveness

erning bodies. Tribes have personal jurisdiction over their members and non-member Indians, territorial jurisdiction over their lands, and subject-matter jurisdiction over such areas as criminal, juvenile, and civil matters. While limited by the Indian Civil Rights Act in sentencing,<sup>9</sup> tribes have concurrent jurisdiction over the felony crimes enumerated under the Major Crimes Act.<sup>10</sup>

The forums for handling disputes differ for each tribe, which may use varying combinations of family and community forums, traditional courts, quasi-modern courts, and modern tribal courts.

**Family forums**, such as family gatherings and talking circles, are facilitated by family elders or community leaders. Matters usually involve family problems, marital conflicts, juvenile misconduct, violent or abusive behavior, parental misconduct, or property disputes. Customary laws, sanctions, and practices are used. Individuals are summoned to these gatherings following traditional protocols initiated by the chosen elder. For example, in Pueblo communities the gathering is convened by the aggrieved person's family, which must personally notify the accused and his or her family of the time and place of the gathering.

Generally, elders are selected as spokespersons responsible for opening and closing the meetings with prayers. During the meeting, each side has an opportunity to speak. The victim may speak on his or her own behalf, and the family may assist in conveying the victim's issues. Extended family members often serve as spokespersons if the victim is very young or vulnerable. Similarly, a spokesperson may be designated to speak on behalf of the accused, especially if the accused is a juvenile or if other circumstances prevent the accused from speaking. When the family forum cannot resolve a conflict, the matter may be pursued elsewhere. Offender compliance is obligatory and monitored by the families involved. It is discretionary for decisions and agreements to be recorded by the family.

**Community forums** require more formal protocols than family forums, but draw on the families' willingness to

retained by the tribes as sovereign nations. It is within this realm that indigenous justice systems exist. Although there have been many efforts to limit the jurisdiction of tribal justice sys-

tems,<sup>8</sup> tribes retain the authority to determine the legal structure and forums to use in administering justice and to determine the relationship of the legal structure with other gov-

8. See the establishment of the Court of Indian Offenses in 1883; the unilateral imposition of law and order codes in 1884; passage of the Major Crimes Act, 18 U.S.C. §1153 (1885, Supp. 1986); the Indian Country Crimes Act, 18 U.S.C. §1152 (1817); the Assimilative Crimes Act, 30 STAT. 717 (1898); Public Law 83-280, Indians—Criminal Offenses and Civil Causes—State Jurisdiction, 18 U.S.C. §1162, 25 U.S.C. §§1321-1326, 28 U.S.C. §1360; the Indian Civil Rights Act, 25 U.S.C. §1301

1303 (1968, Suppl. 1986); and Supreme Court decisions such as *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191; and *Duro v. Reina, et al.*, 110 S.Ct. 2953.

9. Indian Civil Rights Act, *id.* at 18, imposes certain protections and limitations on tribal authority and as amended in 1986 limits criminal punishment to one year imprisonment and a \$5,000 fine.

10. Major Crimes Act, *supra* n. 8, at 18.

discuss the issues, events, or accusations. These are mediated by tribal officials or representatives. Some tribes have citizen boards that serve as peace makers or facilitators. Customary laws, sanctions, and practices are used. Personal notice is made by tribal representatives to the individuals and families involved. Usually, this is all that is necessary to compel individuals to meet in both the family and community forums. When necessary, a personal escort to the gathering place may be provided by tribal officials. In some tribal communities notice may be by mail.

In the community forum, the tribal representative acts as facilitator and participates in the resolution process along with the offender and victim and their families. As with the family forum, prayers are said at the beginning and at closure. An unresolved matter may be taken to the next level, however, but tribes may or may not offer an appeal process for the community forum. In the Navajo peacemaker system, formal charges in the Navajo district court may be filed. In some Pueblo communities, matters may be pursued through the traditional court. Offender compliance is obligatory and monitored by the families involved and tribal officials.

**Traditional courts** incorporate some modern judicial practices to handle criminal, civil, traffic, and juvenile matters, but the process is similar to community forums. These courts exist in tribal communities that have retained an indigenous government structure, such as the Southwest Pueblos. Matters are initiated through written criminal or civil complaints or petitions. Defendants are often accompanied by relatives to the hearings. Generally, anyone with a legitimate interest in the case is allowed to participate from arraignment through sentencing. Heads of tribal government preside and are guided by customary laws and sanctions. In some cases written criminal codes with prescribed sanctions may be used. Offender compliance is mandated and monitored by the tribal offi-

cial with assistance from the families. Noncompliance by offenders may result in more punitive sanctions such as arrest and confinement.

Defendants are notified in writing. Although rare, matters may be appealed to the tribal council. In some tribes where a dual system exists, interaction between the modern American court and traditional court are prohibited. That is, one may not pursue a matter in both lower-level courts. However, an appeal from either court may be heard by the tribal council, which

compliance by offenders may result in more punitive sanctions such as arrest and confinement. Like quasi-modern tribal courts, these are courts of record, and appellate systems are in place.

Some of the quasi-modern and modern courts incorporate indigenous justice methods as an alternative resolution process for juvenile delinquency, child custody, victim-offender cases, and civil matters. The trend of tribal courts is to use the family and community forums for matters that are highly interpersonal, either as a diversion alternative, as part of sentencing, or for victim-offender mediation. Some are court-annexed programs such as the Alternatives For First Time Youth Offenders Program sponsored by the Laguna Pueblo tribal court in New Mexico. Under this program, juvenile offenders are referred to the village officers, who convene a community forum. Recommendations for resolving

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### *The indigenous approach to justice requires problems to be handled in their entirety.*

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the matter may be court-ordered, or the resolution may be handled informally by the the village officers. This joint effort by the court and village officers allows them to address the problem at the local village level and to intervene early to prevent further delinquency.

**Quasi-modern tribal courts** are based on the Anglo-American legal model. These courts handle criminal, civil, traffic, domestic relations, and juvenile matters. Written codes, rules, procedures, and guidelines are used, and lay judges preside. Some tribes limit the types of cases handled by these courts. For instance, land disputes are handled in several Pueblo communities by family and community forums. Like traditional courts, noncompliance by offenders may result in more punitive sanctions such as arrest and confinement. These are courts of record, and appellate systems are in place.

**Modern tribal courts** mirror American courts. They handle criminal, civil, traffic, domestic relations, and juvenile matters and are guided by written codes, rules, procedures, and guidelines. They are presided over by law-trained judges and often exist in tribal communities that have a constitutional government. Like traditional courts and quasi-modern tribal courts, non-

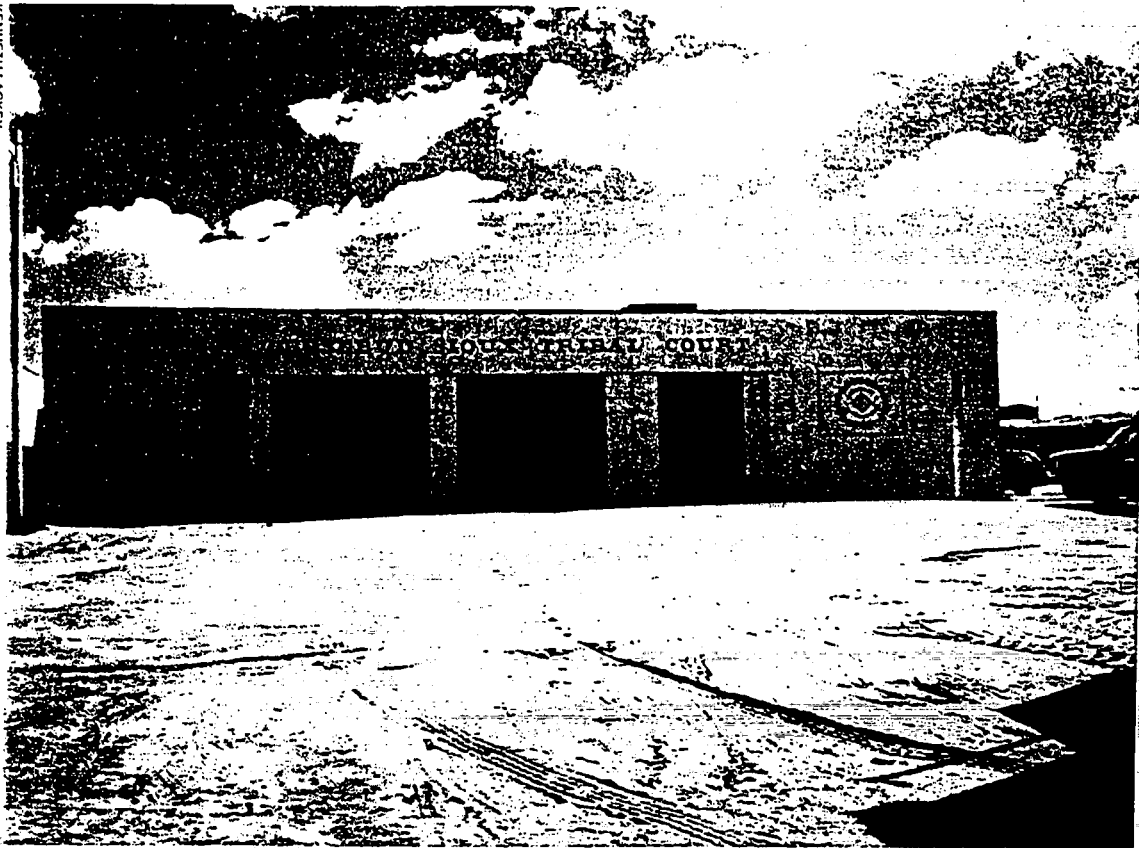
**Characteristics of indigenous law** Common terms or references to the law of indigenous societies include customary law, indigenous law, native law, and tribal or native law ways. All refer to the same concept.

Customary law is generally derived from custom. Custom in this sense means a long-established practice that has acquired the force of law by common adoption or acquiescence; it does not vary.<sup>11</sup>

Tribal common law is based on the values, mores, and norms of a tribe and expressed in its customs, traditions, and practices. In some tribes, the tribal common law has been set

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11. Zuni, "Justice Based on Indigenous Concepts." Paper presented at the Indigenous Justice Conference: Justice Based on Indian Concepts. (1992).



out in different court decisions and written opinions over time and has become case law.<sup>12</sup> Among several Pueblo communities, the matrilineal system holds that property belongs to the female. In a divorce or separation, property is divided according to the matrilineal definitions of property ownership and is written into the decisions of the traditional or tribal court. Similarly, Navajo courts incorporate Navajo common law in decisions in probate, criminal, and child custody cases, and marital conflicts.<sup>13</sup>

For many tribes along the Northwest coast such as the Yurok, customary laws dictate the areas where families can conduct their fishing, hunting, and gathering. These areas are passed down from one generation to the next. When someone fishes in another family's area, it is considered an affront to the entire family. By custom, the

wronged family convenes a family forum as the proper way to handle the matter and to request compensation. Compensation may be with fish, fishing gear, feathers, hides, beadwork, traditional clothing, or other forms of payment.

Among several Pueblo communities, it is customary for discipline to be administered by the *fiscale*, who is responsible for maintaining the peace and overseeing the welfare of children and youth. It is a general practice for parents to summon the *fiscale* when their children are unruly or misbehaving. The *fiscale* advises the children about the consequences of their misconduct and may reprimand them or refer them and their parents to services such as counseling.

In many tribes, information, beliefs, and customs are handed down orally or by example from one generation to another.<sup>14</sup> For example, in the Minto Tribal Court of Alaska the resolution process involves a segment dedicated to "traditional counseling" by the facilitator or presiding judge. There is a general practice of "advising giving"

in the traditional courts of the Pueblo and the "talking to" in the Navajo peace making system. This segment is traditionally set aside for the spokespersons or tribal officials to speak of community values, mores, and the consequences of misbehavior or misconduct. Often these are conveyed in parables or creation narratives and beliefs. Advice is given about harboring vengeful feelings, and everyone is encouraged to renew relationships.

### The indigenous justice process

Indigenous methods of conflict resolution include traditional dispute resolution, peace making, talking circles, family or community gatherings, and traditional mediation, described only by the language of the tribal community. All these refer to the methods of resolving problems and to the methods of restorative and reparative justice.

The structure of relationships in many tribal communities is paramount to a legal system exemplified by the clan system. Tribal law determines clan identification, which is often matrilineal. Among Pueblo communi-

12. Austin, "Incorporating Tribal Customs and Traditions into Tribal Court Decisions." Paper presented at the Federal Indian Bar Association: Indian Law Conference in Albuquerque, New Mexico, (1992).

13. Zuni, *supra* n. 11, at 25.

14. *Id.*

ties, moiety and clan affiliations determine for which group an individual will dance, sing, or hunt in social activities, which religious or medicine groups one may join, which political positions one may hold, whom one may court or marry, or what property one may own. The clan system regulates the behavior of its members. The interlocking relationships in tribal communities often determines the flow of how problems are handled.

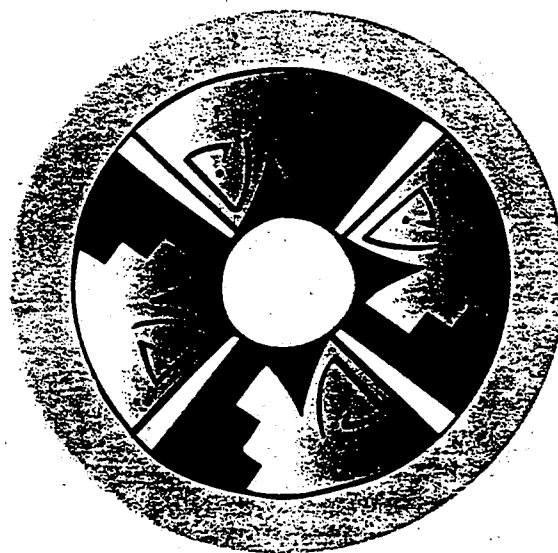
For example, in many tribal communities, parents and the extended family are expected to nurture, supervise, and discipline their children. When parental misconduct occurs, such as with physical or sexual abuse or neglect, the parents and extended family convene through the leadership of an elder to address the matter. In a minor case of physical abuse or neglect, the family forum is used. The distributive aspect is invoked extensively to ensure protection of the children and to monitor and enforce proper parental behavior and responsibility, which is regulated by the family. More serious cases may involve tribal officials.

In the family and community forums and the traditional courts, those accused of wrongdoing are required to give a verbal account of their involvement in an incident, whether or not they admit to the accusations.<sup>15</sup> This verbal account is key in discovering the underlying factors precipitating the problem. It requires participation by the offender's family and relatives who may have to explain the offender's misconduct, especially when some type of victimization has occurred. For example, parents may be admonished for not providing proper discipline and supervision for their children who vandalized or destroyed property. Relatives may be criticized for allowing a son or brother to abuse his wife or children.

Verbal accountability by the offender and the offender's family is essential to express remorse to the victim and the victim's family. Face-to-face exchange of apology and forgiveness empowers victims to confront their offenders and convey their pain and anguish. Offenders are forced to be ac-

countable for their behavior, to face the people whom they have hurt, to explain themselves, to ask forgiveness, and to take full responsibility for making amends. Observing and hearing the apology enables the victim and family to discern its sincerity and move toward forgiveness and healing. Forgiveness is strongly suggested, but not essential for the victim to begin healing.

The restorative aspect frequently involves the use of ritual for the offender to cleanse the spirit and soul of the bad forces that caused the offender to behave offensively. Ceremonial sweats, fastings, purifications, and other meth-



ods are used to begin the healing and cleansing process necessary for the victim, the offender, and their families to regain mental, spiritual, and emotional well-being and to restore family and communal harmony.<sup>16</sup>

The agreements reached in family and community forums are binding. Participants are compelled to comply through the same interlocking obligations established in individual and community relationships. Compliance and enforcement are important aspects of indigenous systems because there is little coercion. Accepting punishment does not guarantee that an offender will be accountable. Therefore, it is essential that offenders perform outward acts to demonstrate their responsibility for correcting behavior. Offender accountability is essential to ensure compliance with de-

terminations and to prevent further criminality or relapse into deviant behavior. Equally important is for punitive sanctions to be decided and applied by individuals who were affected by the offender's behavior.

Historically, there is little evidence of penal systems in tribal communities. This fact remains today, although there are many who express the need for secure confinement facilities to address serious and violent crimes. Many customary sanctions to appease victims and to safeguard against vengeance are still in use. These include public ridicule, public shaming, whippings, temporary and permanent banishment, withdrawal of citizenship rights, financial and labor restitution, and community service. Some tribes still temporarily or permanently banish individuals who commit serious or violent crimes. Among the Warm Springs Tribes in Oregon, it is customary to refer lawbreakers to the "whipman," who may whip a person for misconduct. In the Laguna Alternatives for First Time Offenders Program, community service is used extensively.

The indigenous process is also used in offenses where there are no victims, such as problems between parents and children, individual misconduct, or alcohol consumption. Family members affected by the offender's behavior or who are concerned with the offender's welfare may participate. Many tribal people view crime, delinquency, and other deviant behaviors as symptoms of bigger family problems. Widening the affected target group to include the offender, parents, siblings, and other extended family members enlists help from those most familiar with the situation to assist in correcting and preventing more serious crime.

The indigenous process can often be extremely uncomfortable and emotional because it involves participation by everyone affected, but great care is

15. Melton, *supra* n. 6, at 16.

16. Bluehouse and Zion, *Hozhoji Nauti'annii: The Navajo Justice and Harmony Ceremony*, 10 *MEDIA-TION Q.* 327 (1993).

taken to provide a safe environment for matters to be discussed. The distributive nature of this process uses the extended family as a resource for the offender, the victim, and the community to resolve problems, to ensure compliance, to provide protection, and to retain ownership of the problems.<sup>17</sup>

### Preserving indigenous systems

Tribes are faced with the inevitable conflict created by two justice paradigms competing for existence in one community. Many Americans believe the law is something to be applied and justice is something to be administered. In contrast, tribes traditionally believe law is a way of life and justice is a part of the life process. For one paradigm to exist, it must convert people to follow it. Although it appears that tribal courts follow the Anglo-American legal system, many adhere to the traditional values of the tribal justice system. This is largely because tribes have been wary of the ethnocentric view of the Western colonizers who devalued their legal structures and wanted to replace them with an imported Western system.<sup>18</sup> Tribes were also required to participate in the Anglo-American legal system in order to protect their lands and people, but they did so without trusting or believing it. This foreign system was imposed by the federal government, thereby thwarting their efforts to convert the tribes.

Attempts to strengthen and re-traditionalize tribal justice systems stem from discontent with the efforts of modern tribal courts to address the crime, delinquency, social, and economic problems in tribal communities. It is joined by the dominant culture's current disillusionment with justice in

this country, which causes doubt about retributive justice and a move toward a more restorative framework.<sup>19</sup> This emerging restorative perspective for the American justice system is illustrated by the following values:

All parties should be included in the response to crime—offenders, victims, and the community. Government and local communities should play complementary roles in that response. Accountability is based on offenders understanding the harm caused by their offense, accepting responsibility for that harm, and repairing it. ... [R]estorative justice guides

tribes to identify their community strengths and views on justice, law, and order. The role of non-Indians is to assist and support the tribes in strengthening their justice systems and to express the urge to take over or replace them. It is the sovereign and cultural right of tribes to explain, interpret, change, enact, and apply their own laws, oral and written, through whatever mechanisms they choose. It is their responsibility to teach the knowledge and skills embedded in their indigenous paradigm to their young.

American Indian and Alaskan Native people have the clearest understanding of their indigenous law ways because they live them. They must be the messengers of this law to preserve its integrity, authority, power, and meaning to the people.

The many intrusions to the tribal way of life have interfered with the natural evolution of the indigenous justice paradigm, but while slowed, it has never stopped. The tribal

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## *The strong adversarial features of the American justice paradigm will always conflict with the communal nature of most tribes.*

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professionals in the appropriate and equitable use of sanctions to ensure that offenders make amends to victims and the community.<sup>20</sup>

Conversion to the American justice paradigm is a difficult choice for tribes, particularly those with a functional indigenous justice system. For many, full conversion is not possible because the indigenous justice paradigm is too powerful to abandon. The strong adversarial features of the American justice paradigm will always conflict with the communal nature of most tribes. For this reason, the inherent restorative and reparative features of the indigenous justice paradigm will continue to be more appealing to the majority of tribal people.

Nonetheless, it is important for

resurgence to strengthen and re-traditionalize their judiciaries has rejuvenated the evolutionary process. While mainstream society is in the midst of shifting from a retributive justice model to a restorative one, many tribes are strengthening their indigenous paradigm. In doing so, they are empowering themselves to provide a justice system that has meaning to the people they serve and the power to perpetuate what was preserved by the ancestors and passed on by the elders as testimony of their commitment to the future of tribes. Contemporary American Indian and Alaskan Native people are now faced with making the same commitment to preserve the indigenous justice system the elders maintained and find ways to perpetuate it.

17. Canadian Institute for Conflict Resolution, "Report to the Council of Akwesasne Concerning a Peacemaking Process," in Ottawa, Canada (1990).

18. Mohawk, *Prologue*, in Wallace, *THE WHITE ROOTS OF PEACE* (Philadelphia: University of Pennsylvania Press, 1946).

19. Umbreit, *Victims Seeking Fairness, Not Revenge: Toward Restorative Justice*, FEDERAL PROBATION (Sep-

tember, 1989). Van Ness, *Restorative Justice*, Galaway and Hudson, eds. *CRIMINAL JUSTICE, RESTITUTION, AND RECONCILIATION* (Munsey, N.J.: Willow Tree Press, 1990).

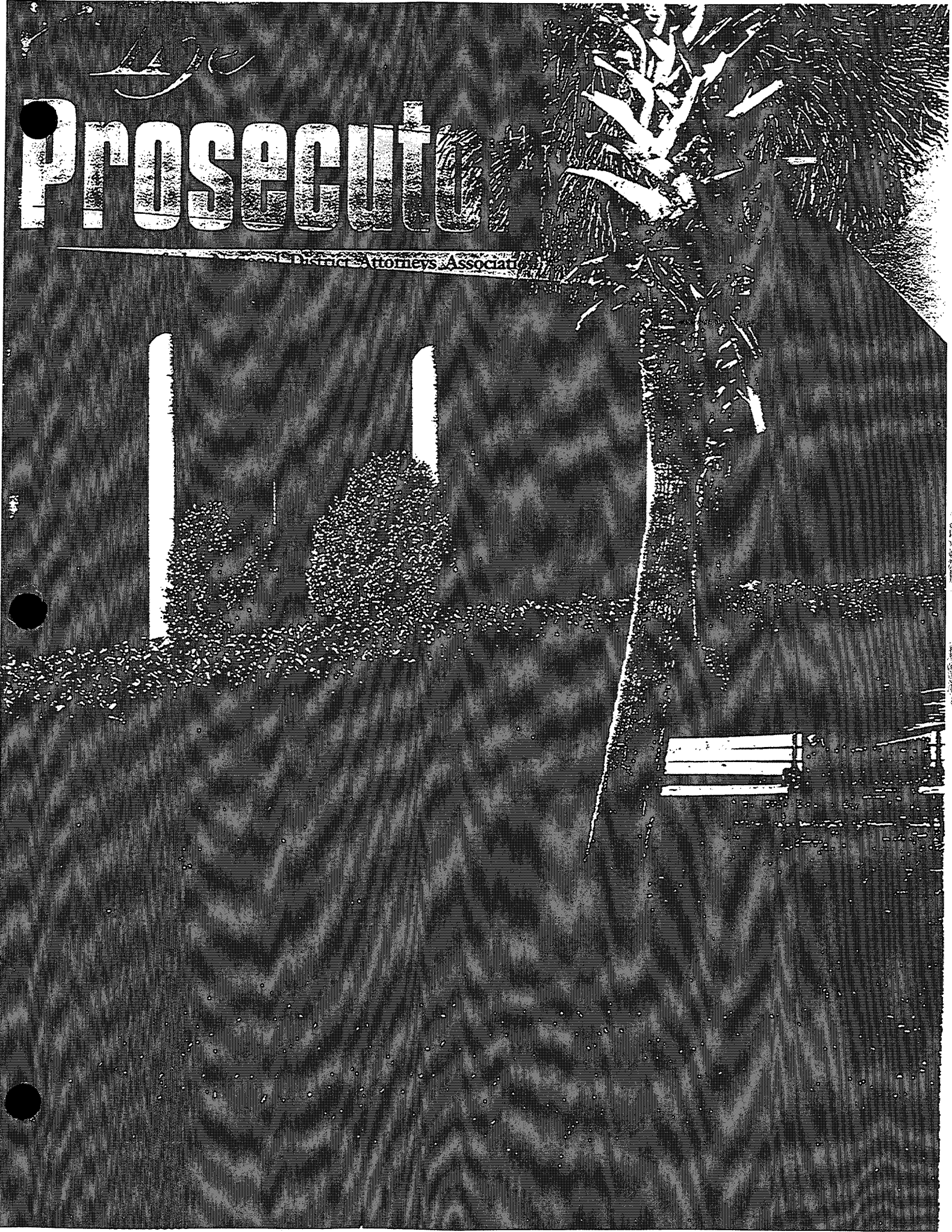
20. Brazeal and Umbreit, "Balanced and Restorative Justice: Program Summary," Office of Juvenile Justice and Delinquency Prevention, October (1994).

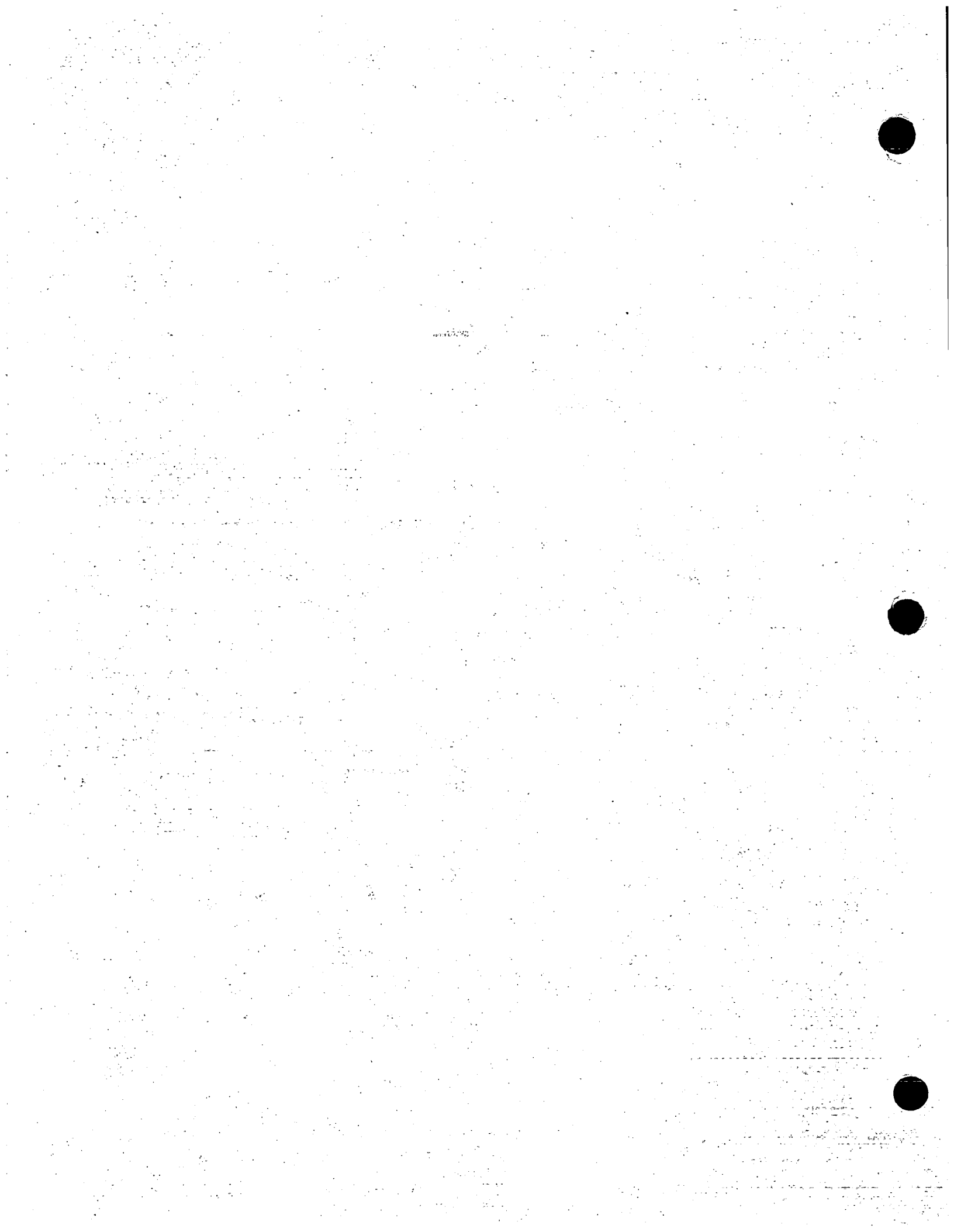


*LAJL*

# PROSECUTOR

District Attorneys Association





# RESTORATIVE JUSTICE AND PROSECUTION IN THE TWENTY-FIRST CENTURY

BY FRED GAY AND THOMAS J. QUINN

*All views expressed are those of the authors and do not necessarily reflect the position of the National Institute of Justice or Polk County officials.*

## INTRODUCTION

THESE ARE DIFFICULT TIMES TO BE administering justice. Fear of crime has led to policies and statutes that have almost tripled our jail and prison population since 1980 and each year more cases are finding their way to the courthouse door. With an average of \$20,000 per inmate per year and unacceptably high recidivism rates, the public is seeking new solutions and is becoming increasingly resistant to allocating sufficient resources to expand staff to meet increasing caseloads and prison overcrowding. At the same time, victim advocates are rightfully demanding to be heard, to be informed, to be involved. Staff in prosecutors' offices nationwide are struggling to balance these demands with the more traditional requirements of the job in the face of fiscal limitations and dissatisfaction with the justice process.

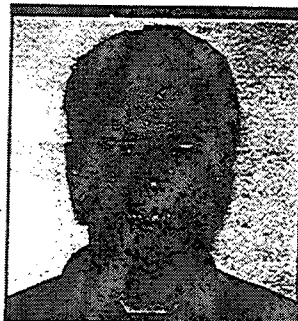
The restorative justice concept is increasingly providing another path to pursue, one which addresses public safety demands while meeting the needs of the victim better than the traditional system.

## HISTORY OF RESTORATIVE JUSTICE

RESTORATIVE JUSTICE IS ACTUALLY A RETURN TO THE justice of old. For centuries in England the local villages delivered justice by making the offender repay the victim. This was based on the Laws of Ethelbert (circa 600 A.D.) and continued traditions established by earlier cultures. Other cultures, including Muslim, American Indian, and many Pacific rim societies include restoration to the victim and the community as core elements of justice, such as the Germanic Tribal Laws, the Roman Law of the Twelve Tables, and the first written laws, the Code of Hammurabi, which are 4,000 years old.



Fred Gay



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In order to centralize power and replenish his treasury, William the Conqueror began a process that was completed by his son Henry I. Crimes became disruption "of the King's peace" and offenders were fined in the King's Courts, instead of ordered to pay restitution by village authorities. By requiring citizens to come to his courts for justice he gained power; by taking fines that would have gone to victims he gained wealth.

Unfortunately, much of William's influence can be found today, where the "State versus . . ." is heard daily in our courtrooms, and restitution is ordered infrequently and collected rarely. We are so busy punishing we forget the victim who was directly wronged and do little to address the community which was disrupted.

## RE-EMERGENCE OF RESTORATIVE JUSTICE

PRIOR VERSIONS OF JUSTICE ARE CATCHING ON anew in our society, beginning with a Community Justice Center in Elkhart, Indiana, in 1978. Now there are hundreds of programs that provide community-based mediation, one example of a program rooted in the philosophy of restorative justice. This approach is more personal; more victim and community involved; more focused on reparation, restitution, and accountability; and less oriented to punishment alone.

There is increasing evidence that the public supports community service and restitution programs, as long as the offenders are held accountable. John Doble conducted focus groups in Delaware,<sup>1</sup> Oregon,<sup>2</sup> and Vermont<sup>3</sup> and found consistent desire on the part of the public for offenders to work to repay the community, instead of just sitting idle in jail. Violent predators are viewed as belonging in prison for public safety reasons. These findings are consistent with those of other surveys.

(continued on page 18)



## RESTORATIVE JUSTICE

(continued from page 16)

### RESTORATIVE JUSTICE IN POLK COUNTY

POLK COUNTY, IOWA, HAS A POPULATION OF APPROXIMATELY 350,000. While the Polk County Attorney's Office presently operates several programs that are restorative justice in nature, the concept of restorative justice was not embraced by the office at a single point in time. Rather, the recognition that restorative justice principles have a place in the way prosecutors participate in the delivery of justice occurred at different times with individual prosecutors within the office.

In 1978 the Polk County Attorney's Office established the Polk County Neighborhood Mediation Center as a site where the resolution of relatively minor disputes could occur outside the formal legal process. From 1978 through 1990 the Center, contracting with trained mediators, handled hundreds of cases annually. Most of these would otherwise have worked their way to Small Claims' Court or the Simple Misdemeanor Court. In 1991, the county attorney's office made the decision to institute a Victim Offender Reconciliation Program (VORP). The cases for this program primarily involved unemployment fraud in which criminal defendants had illegally received benefits. Defendants were given the opportunity to have a felony fraud charge reduced to non-felony *after* successful completion of a Victim Offender Reconciliation Program in which the defendant met an unemployment fraud investigator and reached an agreement on a restitution amount and payment plan.

It soon became apparent that program referrals could be made in other types of criminal cases in which there was a *real* victim. The Criminal Division began referring a variety of non-felony offenses to the program (assaults, thefts, harassments, criminal mischiefs, etc.). In almost all cases, the referrals were prior to guilty plea with the agreement that, if the defendant participated in good faith in a Victim Offender Reconciliation Program, the state would either reduce the pending charge or recommend a more favorable disposition to the court at the time of sentencing. It became evident that a majority of criminal defendants offered a Victim Offender Reconciliation Program were willing to participate. This was also true of victims. Since 1991, over 90 percent of victims who were offered the opportunity to meet with their offender in a program session accepted. Victims routinely report that their victim-offender meeting allows them to have previously unanswered questions about the crime answered. They also report that the meeting allows them to obtain closure in a way not provided by the traditional prosecution approach.

In a four and a half year period there were 2,599 victim-offender sessions held. Victim-offender agreements were reached in 97 percent of the cases handled with restitution agreed to in the aggregate amount of \$1,152,000. There are now as many felony as non-felony offenses referred to the program, with burglaries, robberies, thefts, and forgeries being the most common. A number of murder, vehicular

homicide, kidnapping, and sexual assault victim-offender programs have also been held.

While referrals to the Victim Offender Reconciliation Program during the first two years of the program exclusively from the Criminal Division of the Polk County Attorney's Office, the criminal court in the county now routinely orders a Victim Offender Reconciliation Program as a condition of a defendant's sentence. Although not unanimous, several criminal court judges now recognize that the opportunity to participate in a Victim Offender Reconciliation Program is an important right of crime victims. In a telephone survey of 100 victims who have participated in the program, 96 percent stated they would choose the program again, 96 percent stated they would recommend the program to other victims, and 86 percent found meeting their victim to be helpful. Of 100 offenders surveyed who have participated in the program, 88 percent reported that they had apologized to the victim and 62 percent stated that they felt the victim had a higher opinion of them because of the program.

### YOUTH POLICY CHANGED

A SECOND PROCEDURE INITIATED BY THE POLK COUNTY Attorney's Office that is restorative justice in nature is the Youthful Offender Pre-Trial Intervention Program. This was started in July of 1992 as a response to the increasing number of youths who were 16 and 17 years old but who were waived from juvenile to adult court on felony charges. The program's goal is to provide first time felons 16 to 17 years of age with services not available in the adult correctional system.

Offenders offered admission into the program are given the opportunity to plead guilty to a non-felony charge and, in most cases, receive a deferred judgment. To obtain this disposition, offenders are released on a pre-trial status to the Youthful Offender Pre-Trial Intervention Program and must complete all program requirements before being allowed to plead guilty to the non-felony target charge.

Basic program requirements are: substance abuse evaluation and treatment if recommended; education assessment; receipt of high school diploma or GED; completion of Breaking Barriers (life style change course taught by corrections' staff), Street Law (taught by prosecutors) and Pre-Employment Program (taught by National Council on Alcoholism staff); Victim Offender Reconciliation Program session with the victim to discuss the crime and reach a restitution agreement; individual and group community service; establish relationship with assigned mentor from the community; abide by established curfew; and random drug testing. Approximately 75 percent of offenders complete the Youthful Offender Pre-Trial Intervention Program and are placed on formal probation following a guilty plea.

### BEST USE OF RESOURCES

OVER THE PAST FIVE YEARS THE POLK COUNTY ATTORNEY'S Office has recognized that the prosecutor plays a key role in

Assuring that the criminal justice system makes the best use of the scarce resources available to the system. Toward this end, the office has implemented three programs intended to impact the overburdened system at various levels.

First, with the assistance of federal dollars, a Structured Fine Pilot Program was begun in January of 1992. Operating on the premise that fines should be based on the level of the crime and the offender's ability to pay, the office staff was devoted to computation and collection of fines. In less than three years, the county witnessed a 250 percent increase in both the collection rate and the dollars collected from fines. This occurred at the same time that the average fine for the most common non-felony offenses decreased as the result of lower fines being assessed to those least able to afford a fine.

Second, an Unsupervised Probation Program was established to ease formal probation overcrowding. Initially operated out of the offices of the Polk County Attorney, over 3,000 low risk offenders are monitored annually by a compliance officer. The failure rate for offenders in this program is less than 10 percent.

Third, a Jail Court Docket has been established to impact extreme overcrowding at the county jail facility. The county attorney's office has assigned a full-time prosecutor and a full-time legal assistant to staff the jail courtroom. In addition, a second prosecutor is assigned to handle only felony cases of incarcerated pre-trial defendants. The goal of this docket is to fast-track the cases of these defendants thereby resulting in fewer jail days spent by the offenders prior to case disposition. The office staff assigned to this docket work closely with the judge, public defender, probation officer, substance abuse specialist, and jail review specialist assigned to the jail courtroom. The ultimate goal of this team is to expedite case processing without sacrificing community safety.

#### BLUEPRINT NEEDED

THE POLK COUNTY ATTORNEY'S OFFICE BELIEVES IT HAS made progress in addressing victim, offender, and community needs in the face of fiscal limitations; however, the office also acknowledges that changes in office policy and procedure that attempt to implement restorative justice concepts have occurred on somewhat of a piecemeal basis. While a vague restorative justice vision has guided certain aspects of the office over the past few years, there is no blueprint for what a uniform restorative justice system would be like nor how it would operate within the county. Assuming that the prosecutor is at the most critical juncture of the system to effect change, it may well be that most of the necessary pieces are present in the county to move to the next level.

Perhaps most critical is the existence of an experienced and well-staffed mediation center. Clearly, the most manifest foundation of restorative justice is the victim-offender meeting. If justice can best be realized through a Victim Offender Reconciliation Program, then access to justice for large numbers of victims and offenders can occur only where a system-based Victim Offender Reconciliation Pro-

gram exists. Polk County has this, along with a judiciary that is growing more comfortable with restorative justice concepts. Finally, the county has a prosecutor's office willing to accept responsibility as the gatekeeper of the system. The county attorney's office has demonstrated the ability to take control of large numbers of criminal cases and work toward fashioning dispositions consistent with restorative justice principles.

#### STARTING POINT

THE NEXT STEP WOULD BE TO DESIGN A CASE FLOW approach that would identify all cases appropriate for restorative justice disposition. The starting point for such an approach would necessarily have to be at the point where cases enter the system and before there is any disbursement of these cases. A central intake unit, operating under well-established guidelines and having access to all police reports and criminal history information for each defendant, would direct cases in one of two directions: a restorative justice route or a traditional route.

The cases taking the traditional route would be the most serious offenses, *i.e.*, murder, kidnap, sexual assault, assaults with serious injury, and cases in which defendants have lengthy criminal histories. Those taking the restorative justice route would be all others.

Defendants who have cases appropriate for a restorative justice disposition would be contacted within the first two weeks of their arrest and would be offered an opportunity to meet with the victim of their crime for the purpose of case resolution. These defendants would also be provided information about a variety of community resources, hopefully some of which would be appropriate for the defendant's needs. If the defendant is favorable to meeting with the victim, the victim would then be contacted to arrange a Victim Offender Reconciliation Program. Cases of defendants who do not respond, or cases in which the victim does not want to meet with the defendant, would be directed to the traditional prosecution track.

In those cases in which a Victim Offender Reconciliation Program is held, the parties would be encouraged to reach agreements consistent with both the victim's and the offender's needs. The parties at the victim-offender program would be given considerable discretion, within a range established by the prosecuting attorney. In most cases, agreements would be structured so that the offender would have to complete all requirements of the agreement prior to receiving a charge reduction or a favorable sentencing recommendation from the prosecuting attorney. This approach would ensure a higher compliance rate and would reduce probation violations, as most conditions of probation would be completed prior to sentencing.

This two-track system does not appear to apply to so-called "victimless crimes" such as prostitution, drug offenses, drunk driving, and weapon charges, to name a few. However, in Polk County representatives of neighborhood associations have participated in several Victim Offender

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## RESTORATIVE JUSTICE

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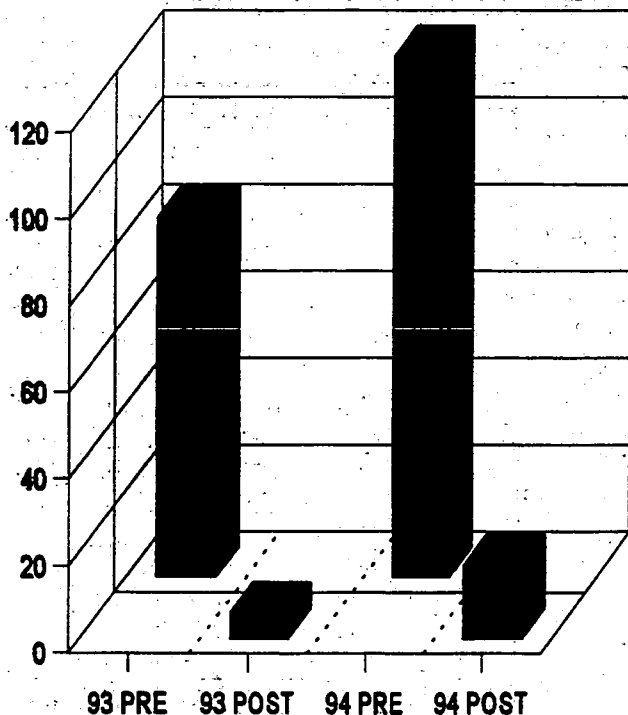
Reconciliation Programs involving prostitutes arrested in designated areas. In addition, Victim Offender Reconciliation Programs with multiple drug defendants have taken place in the presence of middle school students with favorable impact on both defendants and students.

### FROM CONCEPT TO REALITY

IF RESTORATIVE JUSTICE IS TO MOVE FROM BEING A MERE concept to an integrated systemic approach, victims and community representatives must be involved in the process at an early stage and in a meaningful way. There is research on the value and limits of restorative justice, which may help direct other jurisdictions interested in developing programs along the following principles.

### THROUGH LAW ENFORCEMENT

THERE WOULD SEEM TO BE A NATURAL LINK BETWEEN community policing and programs practicing restorative justice philosophy, but they rarely operate in tandem. One which does is in Harrisburg, Pennsylvania, evaluated by Dr. Roosevelt Shepherd of Shippensburg State University.<sup>4</sup> The police referred cases with a history of calls at the same address to a Citizen Dispute Settlement program, which met with the parties and tried to resolve the underlying problem. The results are impressive, as countless hours of patrol time were freed up while fewer return calls were needed at the problem addresses in two separate test periods.

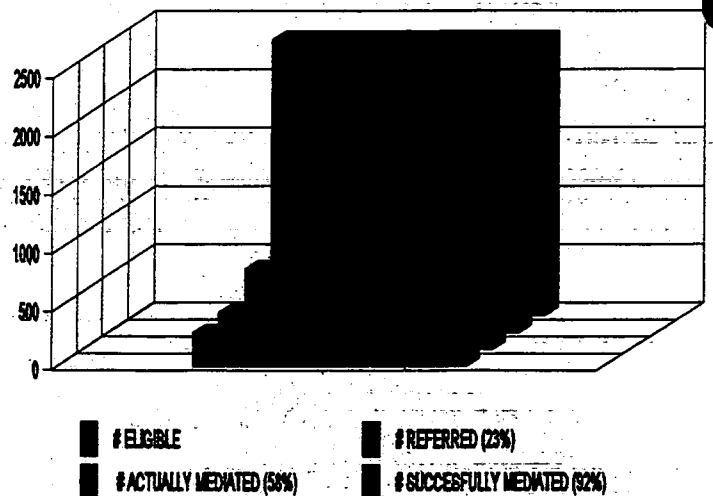


Harrisburg, Pennsylvania, Police Referral to Citizen Dispute Settlement (Shepherd, 1995)

## FROM THE PROSECUTION PERSPECTIVE

THERE ARE MANY PROGRAMS OPERATING AT THE prosecution stage, but few have been evaluated. One evaluation in 1992 by Stephens Clarke, Ernest Valente, Jr. and Robyn Mace<sup>5</sup> in North Carolina reviewed three of 19 counties which had a victim-offender-mediation program as an alternative to court process. The evaluators selected three similar counties without a mediation option as a control group, then interviewed complainants, offenders, and reviewed data. Major findings are as follows:

- Too few eligible cases were referred, although of those referred almost 60 percent did go to mediation and 92 percent of those reached a successful conclusion
- For those mediated, a high percentage (92 percent) were satisfied that the problem was solved compared to 69 percent who went through the court process
- Fewer in the mediated group had new charges, although both were low (two percent versus four percent) and the number was not statistically significant
- Compliance with the agreement by the offender was about 95 percent
- Due to the referral problem noted above, in only one of the three counties with mediation was there evidence that trials were reduced.



### North Carolina Court Mediation (Clarke, Valente, Mace 1992)

Another example, this one in New Zealand,<sup>6</sup> elicits more dramatic results. For largely fiscal reasons the conservative New Zealand government passed a juvenile justice statute in 1989 intended to insure diversion, accountability, due process, family involvement, delay reduction, victim involvement, consensus decisions and cultural appropriateness.

In place of formal prosecution was a "family group conference" based on a native tradition that involves the families of both offenders and victims. The purpose is to

ocus on the wrongfulness of the act and explain the full impact of the crime on the victim and the community, while allowing the offender to earn his way back into the good graces of the community. Evidence is apparent that diversion programs, as prosecutions of offenders aged 17 to 19 years old dropped 27 percent. On the downside, the process took longer than the brief court hearing; supporters claim the extra time is worth it for the impact on the victim and offender. John Braithwaite<sup>7</sup> of Australia refers to this as "reintegrative shaming." A number of Australian towns have adopted a version of it, and one reported a 23 percent drop in juvenile crime; several cities in the United States are exploring this approach as well.

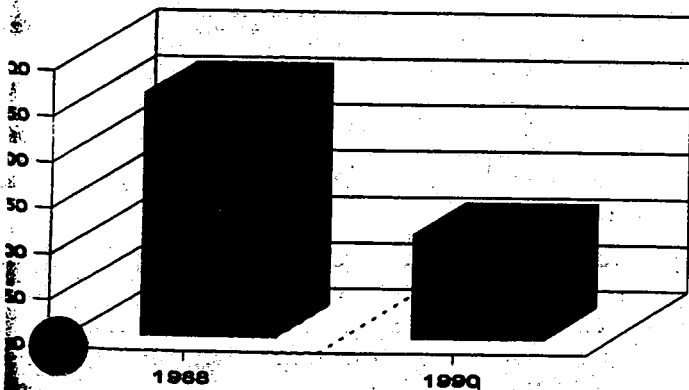
### IN THE COURT SYSTEM

A NUMBER OF PROGRAMS OPERATE FROM THE COURT. FOR example, the Midtown Community Court in Manhattan (New York) was designed to deal more effectively with nuisance crimes that affected the quality of life in the area, and a review in 1994 found a number of beneficial results:

- More defendants got community service sentences (64 percent versus 26 percent)
- Completion rates were higher (75 percent versus 50 percent)
- Arraignment occurred more quickly (18 hours versus 35 hours)
- Community satisfaction was evident; in fact there was a demand for expansion to other areas of the city
- Reduction in targeted crimes (street prostitution and unlicensed vending).

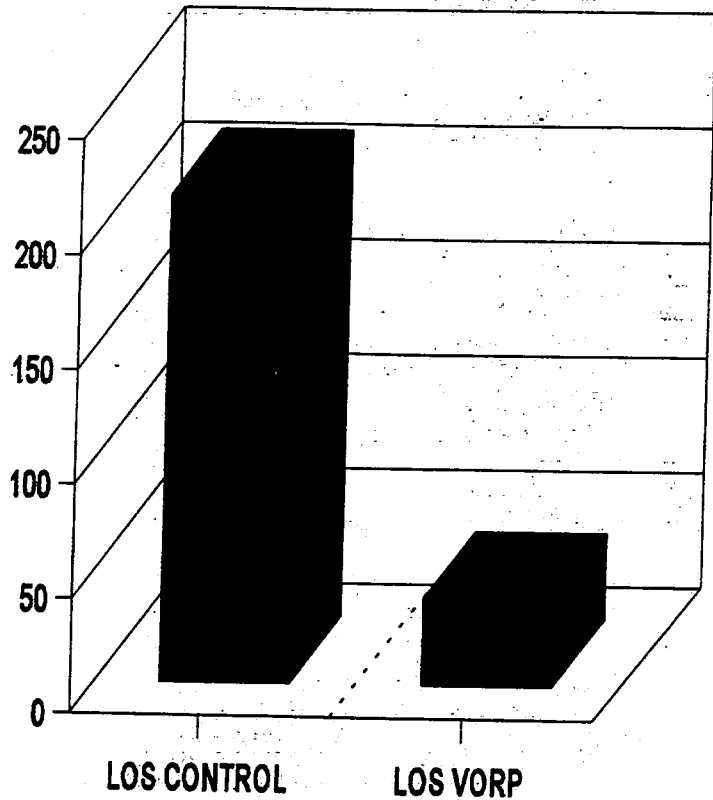
### SENTENCING

THE IMPACT AT SENTENCING CAN BE FOUND IN SEVERAL research reports. In New Zealand, the family group conferencing did more than merely reduce prosecutions. According to Russ Immarigeon<sup>8</sup> it substantially reduced commitments to youth prison.



New Zealand Youth Prison Commitments (Immarigeon 1994)

New Zealand subsequently closed several of its training schools, and the new approach has been touted by the native populace who have traditionally been over-represented in the institutions. A review by Robert Coates<sup>9</sup> of three programs in Indiana and Ohio found a different but also dramatic effect. Those who went through a victim offender mediation program were about as likely to be incarcerated as those in the control group, but the length of stay was substantially shorter. Coates estimated that the combined days saved by the Victim Offender Reconciliation Program process amounted to a value of more than \$84,000. There was also evidence that victims were satisfied with the process, and that it humanized the criminal justice system for all parties. As with most other reviews, subsequent restitution collection was high, and offenders reported fear and tension at having to face the person they victimized.



■ AVG # DAYS

"LOS" = length of stay (Coates et. al.)

Genesee County New York, which has an extensive set of programs built around restorative justice concepts, took in \$700,000 from other counties and states by renting out jail cells in 1993.

### VICTIM IMPACT

PERHAPS THE STRONGEST EVIDENCE SUPPORTING THE restorative justice philosophy relates to victim impact. Dr. Marlene Young, Executive Director of the National Orga-

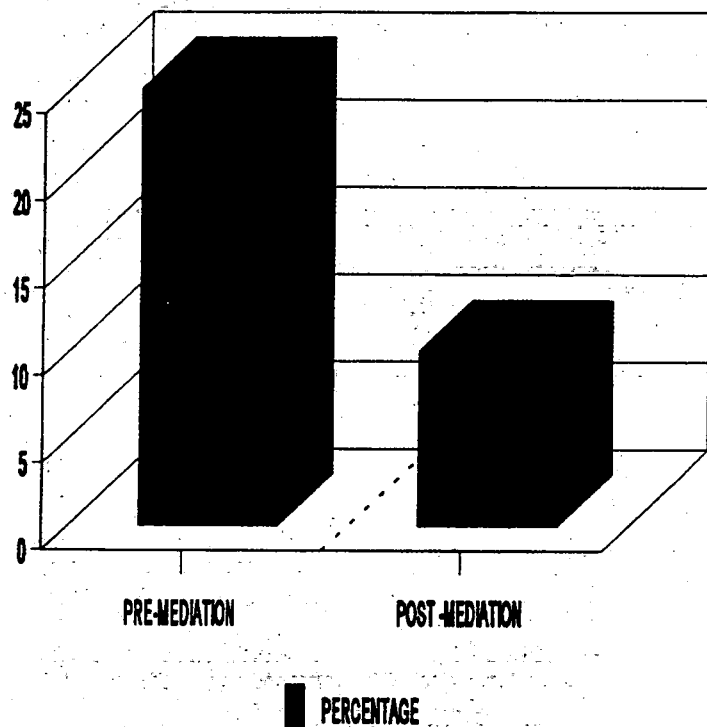
(continued on page 24)

## RESTORATIVE JUSTICE

(continued from page 23)

nization for Victim Assistance,<sup>10</sup> recognized that it is in the interest of victims and the general public alike for offenders who are returning to the community to be better prepared to contribute to society.

This approach is central to another model entitled the "Balanced and Restorative Justice Project" operating at 20 sites under the sponsorship of the federal Office of Juvenile Justice and Delinquency Prevention. In this program sentences must include elements of public safety, accountability to victim and community and offender competency.



Fear of Re-Victimization (Umbreit 1994)

The benefits to the victim are documented and include restitution, feeling involved, having choices, getting questions answered, and reduction of fear. This latter factor was demonstrated by Dr. Mark Umbreit<sup>11</sup> in a study of four victim offender mediation programs involving juveniles. Before mediation, victims feared re-victimization in 25 percent of the cases; afterward only 10 percent.

Canada has a number of restorative programs operating. One program in British Columbia was evaluated in 1995 by Tim Roberts and deals with more serious cases including robbery, rape, and homicide.

An interesting and victim-sensitive adaptation to the face-to-face meeting is in place in the Canadian program reviewed. While the program administrators offer the victim the option of face-to-face dialogue, they also offer less direct exchanges. These could include correspondence and a video of victims telling the offender the impact of the crime or of the offender answering questions posed by the victim or the victim's proxy.

## CONCLUSION

THE RESTORATIVE MODEL CAN SUPPLEMENT THE PUNITIVE approach to balance and humanize the justice process. A related and increasingly important goal will be that of involving the community in ways that will increase their confidence in our justice process.

Small steps can be taken by improving access of victims to information, giving them choices, and improving restitution systems. Adding programs which allow for dialogue between victim and offender has been documented to be of value. Any jurisdiction which adopts programs such as these would have to contract for or train staff in the mediation process. They would also have to decide at which stage or stages to offer this opportunity to victims.

Taken to a systemic level, the challenge will be for those now administering justice to learn new skills, develop different measures of success, and fashion partnerships with victims and community members that gives them some of the power now held by the professionals. It is a direction worth pursuing.

## ENDNOTES

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- <sup>9</sup> Robert B. Coates, *Victim Meets Offender: an Evaluation of Victim-Offender Reconciliation Programs* (Valparaiso, Indiana: Pact Institute of Justice, 1985).
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# Boot Camps, Work Camps, and Community Needs: A Restorative Justice Perspective on Correctional Objectives\*

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## Introduction

In recent years there has been a widespread interest in the establishment of boot camps as an alternative or supplement to the more traditional corrections' options in many jurisdictions. There is no uniformly accepted definition of "boot camp," although generally such a facility includes: barracks-style housing; platoons (of some form or similar

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grouping and phasing of activity); military drill, titles, and protocol; physical activity; labor; and programming of varying types (MacKenzie and Hebert 1996).<sup>1</sup> While early boot camps gave almost exclusive emphasis to militaristic discipline and punishment, more recently implemented boot camps also include treatment and educational components.

Now, we have the occasion to discuss correctional objectives not yet addressed even by the more holistic boot camp models. In considering such new objectives, planners should consider not only correctional exigencies such as cost and political expediency, but also genuine community needs.

One community need that has not been addressed clearly in the boot camp model is the need for reparation of victims or victimized communities. Related to this need is the need for offenders to understand the consequences of their behavior in terms of harm to real people and the need to take responsibility for "making it right" with their victims. This failure to connect the criminal act with the sanction (with responsibility of the offender to make amends) is characteristic of interventions developed with only offender-driven objectives. As such, it is one of the failings of the current criminal justice system that is addressed by an increasingly popular concept in community corrections, restorative justice (Bazemore 1994, Barajas 1995, Bazemore and Schiff 1996).

This paper considers how this restorative justice model can be implemented in boot camps or work camps. This may occur by closely examining what the community wants and expects from such programs. The "lens" of restorative justice provides an important perspective on community needs that can assist planners and current camp administrators to develop objectives, which more clearly address these needs.

### **What the Public Wants: The Appeal of Boot Camps and the Missing Link**

While fiscal and other administrative concerns (such as increasing costs and crowding) are important in considering and planning interventions such as boot camps, their current political popularity ultimately must be squared with community expectations for correctional programs. Public opinion surveys over the past decade show that citizens are generally less punitive toward offenders than policy makers who continue to support the unprecedented expansion of incarceration. These surveys suggest that when given reasonable choices between sanctions for nonviolent offenders, significant majorities choose intermediate sanctions. However, they do not choose just any intermediate sanction. Rather, citizens want offenders to be "held accountable" for their behavior. When choosing among different ways of doing this, often citizens chose reparative sanctions—such as restitution and community service with the requirement that the offender be made to face his or her victim or surrogate victim (Pranis and Umbreit 1992, Schwartz *et al.* 1992). Surveys focused on juvenile offenders also document support for education programs and rehabilitative programs, as well as reparative requirements, but these surveys indicate

least support for traditional treatment programs focused on counseling and traditional training schools (Schwartz *et al.* 1992).

What the public resents is the proverbial "slap on the wrist" associated with probation and some treatment programs. What may create a sense of outrage, often expressed as support for incarceration, are programs which appear to provide special benefits to offenders while showing little concern with sanctions or with the needs of victims and communities. Treatment programs emphasizing only recreation, and even those focused only on offender education, may provoke opposition.

Boot camps have reaped the benefit of a windfall of public outrage against traditional correctional approaches. Their political popularity, therefore, is due not so much to community dissatisfaction with prisons as their dissatisfaction with treatment programs and with probation.

By providing discipline and structure, as well as a dose of punishment, boot camps appear to have filled a void between probation and more traditional forms of incarceration. Boot camp is not a "day at the beach." Yet the disappointing research results (MacKenzie and Hebert 1996) as well as increasing administrative costs, suggest that boot camps may provide less bang for the public buck than generally is imagined.

While boot camps address the public desire for discipline and punishment, most often they do nothing to address the need for accountability to victims and the community. As in probation, victims and community remain in passive roles, and the offender, while given structure, remains a recipient of punishment and treatment. Offenders must rise early, march, and obey orders, but most boot camps provide little productive work and service; the public pays and neither community nor victim receive much in return. Whatever one believes about the rehabilitative value of such activities for offenders, the return of the investment in boot camps at best is subject to serious questioning and, at worst, is self-indulgent.

The public is dissatisfied with justice, but the debate on whether to punish or treat the offender is off the mark. When a crime has been committed, someone has been hurt, and the community has been disrupted. A primary purpose of the justice process should be to understand the damage inflicted, to determine who needs to right that wrong, and to make sure it gets done. These principles are central to restorative justice, and the public favors policies and programs embodying these principles. Focus groups in Delaware, Alabama, and Vermont (Doble *et al.* 1991) indicate a clear preference for community service and restitution, and for more direct victim involvement in the justice process. This is consistent with numerous other studies.

## Toward Restorative Justice

Victim advocates are demanding and receiving rights and attention. Meanwhile, the dissatisfied public is increasingly demanding notification and involvement. Less formal processes for involving the community directly, and linking the offender with the repair

## Juvenile and Adult Boot Camps

of the harm caused by the crime, are gaining favor in the United States. Simultaneously, policy makers beyond corrections are scrambling for more cost-effective ways of dealing with offenders as increasing portions of state budgets are reserved for retribution.

Other cultures, including many Muslims, American Indians, and Pacific rim societies include restoration of the victim and the community as core elements of justice. In Australia and New Zealand, "family group conferencing," based on indigenous cultures there, has gained some favor in mainstream juvenile justice. It brings juvenile offenders and their families together in a mediated setting with the offenders and their families to discuss the case, including how to repay the damage, and what penalty should apply. This more personal approach is part of the reason juvenile crime went down 27 percent in one jurisdiction.

This version of justice is catching on anew in our own society, beginning with a community justice center started in Elkhart, Indiana by Mennonites in 1978. Now, there are hundreds of programs that provide community-based mediation, which is one example of a program rooted in the restorative philosophy. The victim may request a face-to-face meeting with the offender, who then cannot sit and rationalize away the crime. Victims get answers to questions not available under the traditional system. In a sense, it is a return to a decentralized, more immediate response to crime.

Obviously, this will not be appropriate for all cases. Yet, according to recent research (such as Umbreit 1994), victims who go through mediation are more satisfied, less fearful, and receive more restitution than those who are processed through the traditional court system. Offenders who participated were slightly less likely to commit new offenses and were more likely to view the system as fair. When the dialog takes place early in the process, it also can save valuable time of prosecutors and judges.<sup>2</sup>

For crimes with no specific victim, community service acts as a substitute to repay society for the disruption caused. Imagine a squad of convicted drug dealers cleaning up graffiti and boarding up abandoned houses, helping to improve the appearance of the same neighborhoods they have tarnished in the past. That is justice.

One victim-offender mediation program in British Columbia, evaluated in 1995 by Tim Roberts, deals with more serious cases including robbery, rape, and homicide. Obviously with a very serious case, some of the advantages of restorative justice at earlier stages of the process, such as court resource savings, are moot. However, if a system is to be truly restorative, victims have much to gain from such programs. The desire to know "why" is more intense with cases involving serious injury or death. These cases take more preparatory time and a higher level of training for the staff involved, but the evaluation from British Columbia as well as anecdotal cases from Texas, New York, and Minnesota indicate that victims and offenders both feel the process is valuable; for victims it provides a sense of closure, and for offenders it offers a feeling of self-growth.

An interesting and victim-sensitive adaptation occurs in the face-to-face meeting in this Canadian program. This includes face-to-face dialogs and other less direct exchanges, such as correspondence and a video of victims telling the offender the impact of the crime, or of the offender answering questions posed by the victim or the victim's proxy. This type

of creative and flexible approach to involving the victim can go a long way to helping some victims move on with their lives, a goal that too often may be foreign to representatives of our correctional system.

Restorative justice is central to a new approach, the "balanced and restorative justice project" model.<sup>3</sup> The federal Office of Juvenile Justice and Delinquency Prevention is sponsoring demonstrations of this model in three states. Another twenty states have adopted this model in statutes and/or policy statements. In the balanced and restorative justice project model, every disposition must include elements of public safety, accountability to victim and community, and offender competency. The balanced and restorative justice model requires that the juvenile justice agencies focus resources equally on three clients: the victim, the offender, and the community.

Priorities for programs and practices in the balanced and restorative justice model include: restitution, restorative community service, work experience, and other forms of competency development, victim offender mediation, and other victim involvement approaches and preventive capacity building (Bazemore and Umbreit 1995).

## Boot Camps, Work Camps, and the Restorative Model

### *Vermont Community Service Work Camp*

The Vermont Department of Corrections has made a deliberate and concerted effort to move toward a restorative or "reparative" model. Based on market research (Vermont Department of Corrections 1995), Vermont discovered that the public wanted the following (see the chapter in this volume on Vermont):

- Safety from violent predators
- Accountability for violators of the law
- Repair of the damage done
- Treatment to assure safe release
- Involvement of the community
- Assurance of quality and efficiency

As a result, they began to overhaul their correctional system and involve the community with "community reparative boards." These boards act as sentencing panels for relatively minor offenders. The Department of Corrections also created a two-track probation system (one risk-management, the other reparative), retrained and reorganized personnel, and created a community service work camp. It is important to understand the correctional context in which the camp operates.<sup>4</sup>

The Vermont Community Service Work Camp shares with more traditional correctional boot camps the movement through levels in three-to-six months, the barracks (two

## Juvenile and Adult Boot Camps

fifty-bed units), the trade-off for time sentenced (day for day), and the structured routine. It does not use military titles or drills, nor is there marching or exercise. The court refers offenders and the Department of Corrections does the screening.

In place of drill is work—initially within the compound and later under supervision in the community. This work is for the needy or the government. It includes such things as cutting wood for welfare recipients for heat and making signs for the state parks. In the process, offenders learn work habits and skills. The work crews are in demand in the community, as nonprofit and church groups seek the assistance of the offenders in building bus shelters, creating dugouts for Little League, repairing old buildings, and the like. Emphasis is on work that leaves a legacy that offenders and the public alike can see for some time.

In addition, victim impact panels periodically offer evening sessions to sensitize camp inmates to the impact of crime on victims; individual victim-offender mediation (with voluntary participation) is anticipated soon. In fact, the staff is designing a mediation approach to be used for disputes and conflicts within the boot camp itself. Leaders hope that the modeling of this approach will help imbue offenders with conflict resolution skills for their own future. For victims, the opportunity to express the impact of the crime on their lives can be helpful in healing.

In Washington State, for example, victim impact panels have reduced recidivism (72 percent) in offenders who participate, compared to similar offenders who did not complete victim impact panel classes (Stutz 1994). It has increased the payment of restitution (29 percent versus 20 percent) and has resulted in fewer parole violations. Some offenders—perhaps most—do not see their victims as individuals. Indeed, they often see themselves as victims. Perhaps, the victim impact panel reaches some of them so they do understand the result of their behavior on other human beings.

### *Federal Intensive Confinement Center, Lewisburg, Pennsylvania*

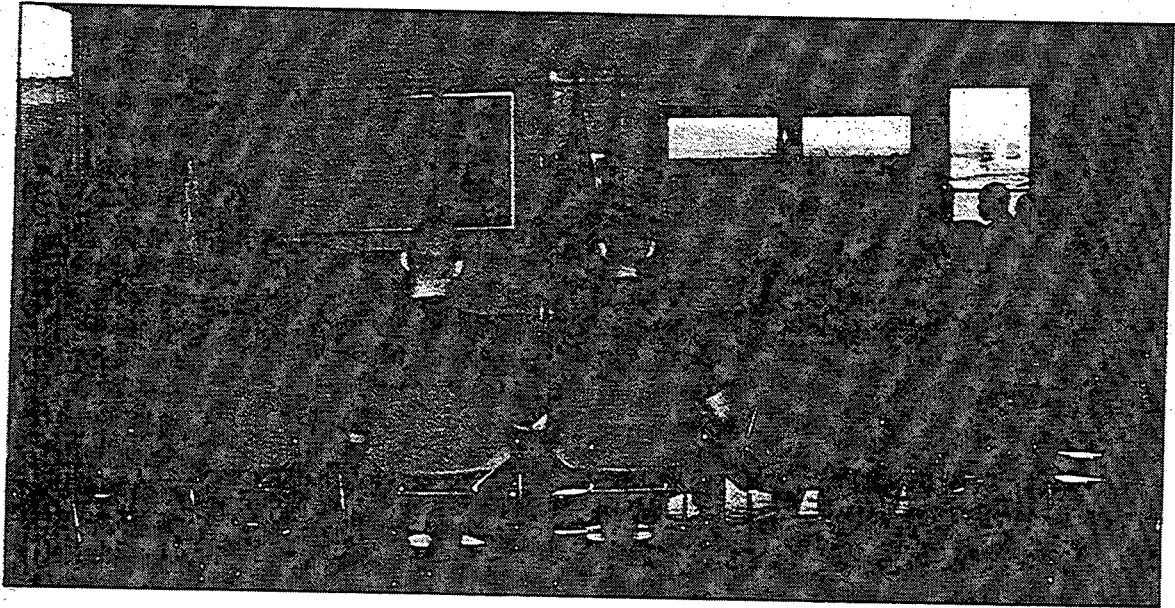
The only boot camp facility for men in the Federal Bureau of Prisons houses 200 offenders recommended by the court for up to six months each. Programming includes awareness and sensitivity and parenting training, as well as more traditional programs in drug treatment, the general equivalency diploma instruction, English as a Second Language (ESL), life skills, and vocational skill development in such skills as welding.

Parenting training is tied into the victimization, which the offenders have experienced. Selected offenders even serve as surrogate “big brothers” to high-risk youth who they visit regularly. This gives the offenders an opportunity to practice dealing with the younger generation so they may better interact with their own offspring once released; they also can bring up problems faced by the at-risk youth with instructors and others in the parenting class.

## Program Components

A victim awareness and sensitivity component is taught by a community volunteer. The eight-hour class is taught in four segments and covers:

- definition of victimization, as well as trauma, culpability, and restitution
- stress predictors (reaction to adverse life situations, choices/outcomes)
- criminal justice system (from the "other side," victims' bill of rights versus Miranda, legislation and statistics)
- socioeconomic impact of crime (planned versus impulse crime, use of weapons, making it right, and personal choices)



This program sensitizes the offenders while involving victims and the community, who come into the facility to address the inmates and express the impact crime has had on them.

### *The Loxahatchee Youth Environmental Services (YES) Project*

The YES project in Palm Beach County Florida is a community-based collaborative effort of the State Department of Juvenile Justice and the United States Department of the Interior. It uses restorative sanctions and processes (Martinez 1996). Juvenile offenders in residential programs satisfy their community service requirements in a wildlife refuge in the Everglades, working thirty-two hours a week at a variety of tasks, mostly related to exotic plant control. Youth supervised by Department of Interior employees work with other youth and adults to develop a sense of teamwork and become familiar with the habits of fauna, such as sea turtles.

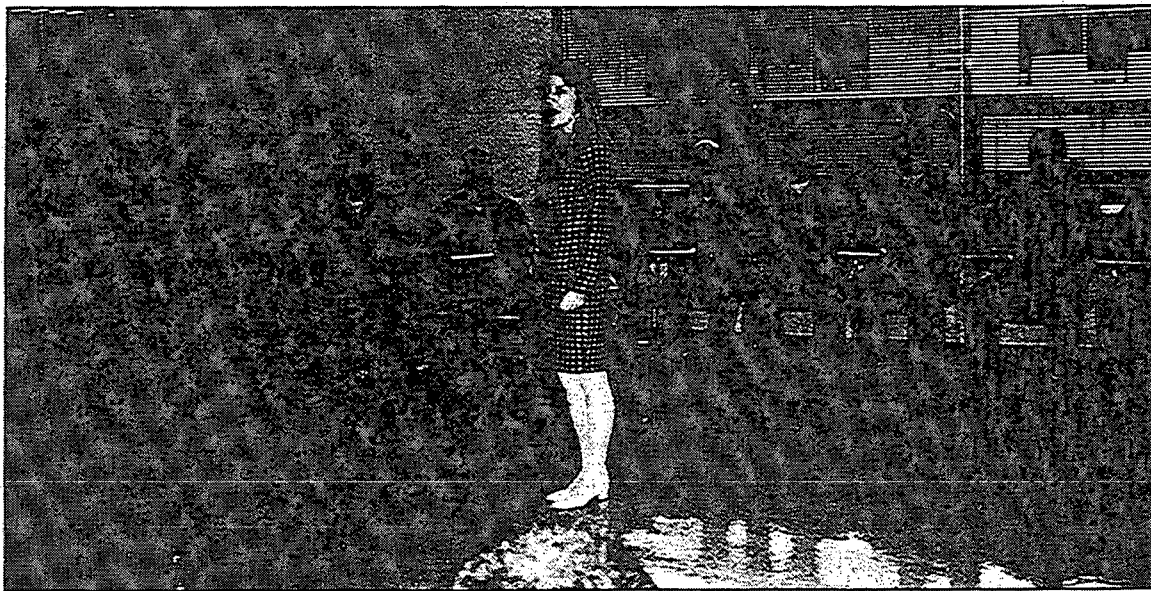


The residents are educated to the ecological benefits of the project while understanding the reality of hard manual labor and learning the use of hand tools. During their tenure, they follow an individualized educational plan with required school lessons along with lessons on punctuality, problem solving, conflict resolution, and other life experiences. Most of the young men are paid a minimum wage for their work beyond the assigned community service hours through a Private Industry Council grant. A large portion of any wages are set aside for restitution and other obligations. Youth also receive victim awareness education during their stay in the facility.

### Applying Restorative Justice to the Boot Camp Model

Because the mission of the boot camp should be understood in the context of the overall department and the criminal justice system, leaders should consider including victim restoration and community reparation as primary (or complementary) goals of the camp. Activities then would be designed to accomplish that mission.

Paying restitution should be a requirement and a priority of the camp. Consistent with the restorative justice philosophy, one of the primary objectives of the justice process should be to right the wrong to the individual victim. Further, there is some evidence that offenders who do pay restitution are more likely to remain crime free (Schneider and Hughes 1989). These payments should be tracked and reported as success measures for everyone—the victim, the offender, and the system.<sup>5</sup>



Besides providing a new perspective for the offender, victim awareness education or victim impact panels can help victims heal and involve the community in positive ways. They also fulfill the program component time, providing for a full day of activities.

## Program Components

Trained mediators (often volunteers from the community) can allow victims in a controlled setting to confront their offenders, express their outrage, get questions answered, and better understand the incident. Research has consistently shown that compared to the traditional criminal justice process, victims who partake in such sessions are less fearful, more satisfied with the process and receive their restitution more completely (Umbreit 1995). It also might be possible to use mediators to help resolve disputes and grievances in the facility as is being contemplated in Vermont.

For victims who are unwilling to directly confront their offender, videotaped comments could be offered, or offenders could be videotaped responding to written questions from the victim. The victim is offered this choice in British Columbia with serious and violent offenders. It provides a way of returning to the victim a sense of control that was lost by the criminal act. In fact, in thirty-nine dialogs involving serious offenses (murder, rape, robbery, and aggravated assault), all the victims and all the offenders indicated that they would repeat the process and recommend it to others.

There is much need in the community that supervised labor by offenders can meet. Besides the value of the help, the connection to the community and the sense of having actually paid back the victim are positive features. The public image benefits also should not be underestimated. However, restorative community service cannot mean simply sending individual offenders to parks to pick up trash or to government agencies which struggle to find useful work for them to complete. Rather, what Bazemore and Maloney (1994) call "service on its highest plane" would have the following characteristics: It would be connected to the overall mission and philosophy of repairing the harm, with some relevance to the specific damage and actions, in a direct or symbolic way (Eglish 1976, Bazemore and Maloney 1994). Mentoring and intergenerational linkages would be encouraged as a way to break down barriers and reconnect youth with adults in a structured way (Shine 1990). Economic development would be considered in selecting community service projects for their maximum visible impact, public support, and community betterment. Citizenship and civic participation would expose youth who may not have been involved in such activities to the sense of shared community and reinforce positive messages about resolving problems without violence.

One of the important advanced steps in recovery for substance abusers is "giving it back"—helping other offenders. Offenders could give to their peers. This also can be an important part of a meaningful and restorative rehabilitation process for other offenders, as well.

To begin implementation, learn more about restorative justice by requesting material from the National Criminal Justice Reference Service, the National Institute of Justice, the National Institute of Corrections, the balanced and restorative justice project, or the National Center for Restorative Justice and Mediation at the University of Minnesota. It also may be helpful to visit existing sites where restorative justice is used. Also, training and technical assistance is available from a number of sources; some of it is free.

The second step is to determine what public opinion research in your jurisdiction indicates is desired and acceptable. This may require conducting new surveys or focus groups



## Juvenile and Adult Boot Camps

and should allow for informed opinions with realistic expectations and cost issues included. There is no magic bullet that will make society crime free, and everything has a cost. In turn, an informed public can better inform its policy makers about the acceptable path to follow and support the efforts required to progress in the desired direction.

Third, find out who is interested in your jurisdiction: legislators, victims, offender support groups, community organizations, church groups, business organizations, other criminal justice agencies, particularly judges, prosecutors, and defense counsel. Wherever the energy and zeal are, build on it. Try to get a core group of professionals and community leaders committed to making a difference and willing to create a new and better reality.

Fourth, form a planning group. Either build on an existing coordinating council or create a new one. This group will drive the planning and act as advisory overseer of the restorative aspects of the operation. Involve representatives from various segments of the community. Agree on a mission for the work camp that fits within the corrections and justice system.

Fifth, analyze services available for victims. Are victims informed of available social services? Do they receive restitution statements? Do they have the opportunity to confront offenders in a mediated dialog, or as part of a victim impact panel? Can violated communities request services?

Sixth, design measurable performance objectives and create a system for monitoring progress and providing feedback. Goals may be focused in any number of directions, but be realistic about what can be achieved. Determine what data or subjective measures will determine whether you are accomplishing your objective, and expect to periodically redirect as needed. Have a feedback/review loop in place to allow that to occur.

Seventh, create a work plan. Depending on the focus, you will need to recruit and train mediators or develop a curriculum. Insure that someone is charged with key responsibilities, set a timeline, but expect delays and unanticipated obstacles.

Eighth, train staff and educate the justice system agencies. Allow the opportunity for questions and ongoing suggestions and feedback. Be flexible.

Ninth, set up a public education/media strategy. Meet with editorial boards, submit "op-ed" pieces to the local newspaper, have representatives on local radio or television talk shows, set up a speaker's bureau that offers to attend service and professional organizational meetings, such as Rotary Club lunches. Invite groups, including legislative bodies, into the boot camp/work camp to tour or hold their monthly meeting.

Tenth, set up periodic quality control/program reassessment to redirect the program and goals as needed.

## Conclusion

The public expects the criminal justice system to hold offenders accountable—that is one of the alluring elements of the boot camp model. However, should not offenders also be held accountable to right the wrong directly to those they have harmed? The public expects so, and justice requires it. The next generation of boot camp or work camp models should include in the design restorative principles, which can supplement the punitive approach to balance and humanize the justice process while involving the community in ways that will increase their confidence in our justice process.

## Notes

1. See for example, Doble Research Associates Inc., *Crime and Corrections: The Views of the People of Oregon*, prepared for the Oregon State-Centered Project and the Edna McConnell Clark Foundation, Englewood Cliffs, New Jersey 1995; *Crime and Corrections: The Views of the People of Vermont*, a report to the Vermont Department of Correction, Englewood Cliffs, New Jersey 1994; Doble, Immerwahr, and Richardson, *Punishing Criminals: The People of Delaware Consider the Options*, prepared by the Public Agenda Foundation for the Edna McConnell Clark Foundation, New York, 1991.
2. Umbreit's study includes four victim-offender mediation programs in different cities in the United States. Before mediation, 25 percent of victims feared being revictimized; afterwards only 10 percent expressed such fear.
3. Some victim organizations look with suspicion at proposals that call for restorative justice. They fear that the victim angle is a cover for more rehabilitation services for the offender. At the same time, there is some notable movement in the victim community to push for these programs. For example, Dr. Marlene Young, Executive Director of the National Organization for Victim Assistance, recognizes that it is in the interest of victims and the general public alike for offenders who are returning to the community to be better prepared to contribute to society. She calls for victim and community involvement and offender competency development (Young 1995).
4. Researcher Tom Castellano suggests that the boot camp mission statement should clearly define the role of the boot camp vis-a-vis the overall correctional system, and explain how its program components achieve that larger mission. We take that one conceptual step further and suggest that the operation should be considered in the broader context of the overall criminal justice system and its mission. This is obviously a far-reaching and time-consuming recommendation, but the lack of focus among the various agencies of justice is an issue of its own demanding attention. We have addressed this further in the last section of this article.
5. Consideration should be given also to redesign of the restitution process for the rest of the system (which is not well organized in most jurisdictions). For example, officials could request technical assistance from local banks or the National Institute of Corrections to review their system and supply some function that may be absent using inmate labor, such as dunning letters, reminder phone calls, and other labor intensive activities.

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## **HIV/AIDS and Victim Services**

National Symposium on Victims of Federal Crimes

February 10 - 14, 1997

Washington, DC

**Presented by  
Diane Alexander**

The material contained in this handout has been taken from the National Victim Center's training manual, *HIV/AIDS and Victim Services: A Critical Concern for the 90's*. A free copy of the training manual and trainer's guide can be obtained by contacting the Office for Victims of Crime Resource Center at 800-627-6872.

NAME:

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# WHAT VICTIM ASSISTANCE PROFESSIONALS NEED TO KNOW

Since the onset and spread of the HIV disease, victim assistance professionals have begun to recognize the impact this disease has on the victims they serve. Initially, most victim assistance professionals focused solely on victims of rape. Gradually, victim assistance professionals recognized that victims of relationship violence were also at risk. And now, victim assistance professionals need to broaden their understanding to include victims of child sexual assault, adult survivors of child sexual abuse, individuals already living with the disease who are victimized, victim assistance program staff, volunteers, colleagues, friends, and family, all of whom may bring concerns about HIV/AIDS to their interactions with victim assistance professionals.

Providing assistance to each of these specific populations will present challenging issues for a victim assistance professional. This chapter will discuss several of the most critical issues involving all of these individuals. Issues such as:

- ☛ How do you create a safe environment to discuss the issue?
- ☛ What about HIV testing?
- ☛ How do you talk with victims about HIV testing?
- ☛ How does HIV/AIDS impact the workplace?
- ☛ How do you work with family members?, and

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- ☛ How does dealing with this disease impact the victim assistance professional?

Subsequent chapters will focus specifically on the issues faced by victims of rape, relationship violence, child victims and HIV + people who are victimized.

### Creating a Safe and Open Environment

Creating a safe and open environment in which a victim, colleague, staff member or volunteer will feel comfortable enough to raise the HIV/AIDS issue is an important first step in developing a comprehensive response to this critical concern. By creating a welcoming environment, a person will receive the message that he/she is with someone who has some knowledge of the disease and is open to talking about the issue. It is important to remember that some HIV + individuals or PLWA's may not disclose their status regardless of how open the environment appears. Many individuals may not feel as though their status is relevant to receiving assistance in the aftermath of their victimization, and victim assistance professionals should respect an individual's decision not to disclose his/her HIV status, and therefore should not feel compelled to inquire about a victim's HIV status. The critical issues involved when assisting crime victims who are already living with the disease will be addressed in a separate chapter.

Victim assistance professionals should assess their current methods of communicating their openness and willingness to serve victims. Are there posters on the walls depicting different types of victimizations? Is there a waiting area where victims can obtain informational brochures about the program?

or about specific victimization issues? To bolster openness, consider displaying HIV/AIDS awareness posters throughout the office, in the waiting area and in each person's office. Public awareness posters can be obtained through local AIDS service organizations, county and state health departments and the Centers for Disease Control National AIDS Clearinghouse. (See listing of agencies in Appendices for contact information.)

Have information readily available in the main waiting area and in each victim assistance professional's office. Many of the previously mentioned agencies may be able to provide general informational brochures. Most helpful to a victim would be a brochure that provides information and referrals to local AIDS service organizations. Consider creating a brochure which addresses the specific issues confronting crime victims. When creating a local brochure, be certain to:

- ☛ Use clear, simplistic language;
- ☛ Allow enough space to explain the critical issues;
- ☛ Include information on modes of transmission and the HIV test;
- ☛ Provide local testing and counseling resources;
- ☛ Provide examples of how to protect one's self and others; and
- ☛ Provide referrals to national organizations for additional information.

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It may prove helpful to enlist the support and assistance of local AIDS service providers when creating a local brochure. Also, secure the commitment of local AIDS service organizations to display information on victim service programs.

On a more personal level, victim assistance professionals may want to wear or display a button or pin that indicates their awareness and support of HIV/AIDS issues, perhaps a red ribbon pin or another symbol that is identified with the HIV/AIDS awareness movement.

### **Raising The Topic With Victims Who May Be At Risk**

Initiating a conversation with a victim about HIV/AIDS and his/her risk level may be one of the more difficult tasks victim assistance professionals undertake. This task will hopefully be made easier by creating a safe and open office environment. However, even with the most welcoming environment, some victims may not initiate a conversation for a variety of reasons. The victim may not realize he/she is at risk; the victim may be quite aware of the risk, but fearful of discussing that risk with anyone; the victim may know his/her status and decide not to disclose.

Victim assistance professionals need to assess the victim's readiness to discuss the potential risk of infection. For example, when victims call a hotline or other type of phone line, the victim assistance professional will not be able to use some very valuable assessment tools. He/she will be unable to use the visual clues to evaluate the victim's physical and psychological needs. In this type of situation, victims should be offered referrals to programs that provide information and counseling about HIV/AIDS.

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Where a victim assistance professional does have face-to-face contact with a victim, HIV-related issues should be addressed as soon as is clinically appropriate. The victim assistance professional may give priority to physical and psychological needs of the victim, for example, where the victim is gravely injured, unconscious, or so psychologically traumatized that he or she cannot assimilate the information. Raising the issue of HIV/AIDS in an emergency room setting may not prove to be the most conducive setting in which to talk about this very complex issue. Perhaps providing a brochure regarding the disease, testing, your services, and HIV/AIDS resources in the community would be most helpful. Regardless of the type of victimization, victim assistance professionals should carefully consider all factors before beginning a respectful and non-threatening dialogue.<sup>1</sup>

What can victim assistance professionals do when a victim asks about HIV/AIDS? First and foremost, take the time to review the victim's risk of infection and motivation for being tested. Although their risk and motivation will be addressed in a pre-test counseling session, it would be helpful to initially explore these issues with the victim. Explain the testing process, including the types of testing, the various test results and their possible reactions to the test results. Finally, help the victim make a decision about pursuing further testing information with a qualified AIDS service provider. If the victim assistance professional does not feel qualified to answer the victim's basic questions, consider a collaborative effort with a local AIDS service provider or other entity well versed in the issue. *Victim assistance professionals should not place themselves in the position of delivering the victim's test results.* This would introduce a

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potentially uncomfortable aspect to the already existing relationship, as the victim assistance professional would be a constant reminder of the moment the positive results were delivered.

### What About Testing?

This section will provide an overview of the testing process, a review of anonymous versus confidential testing, the real benefits to baseline testing, the pros and cons of mandatory testing, an overview of state mandatory testing laws, and suggestions for talking with victims about HIV testing.

### The Test

Deciding to take the HIV test is a very personal decision that should be made only after a person has participated in a pre-test counseling session conducted by a qualified professional. However, a victim assistance professional needs to have a basic understanding of the testing process in order to answer a victim's initial questions.

The HIV test is just that, a test to determine if HIV is present in the body. This is determined by testing for the presence of the antibodies produced to defend against the virus, not the virus itself. Accurate testing for HIV antibodies requires two different tests. The screening test is called the ELISA (enzyme-linked immunosorbent assay) test. Positive ELISA tests are confirmed by a second test, either the Western Blot or the IFA (immunofluorescent assay). The ELISA test is highly accurate, but it does have some limitations. There can be both false positive and false negative results.

A false positive test is one that reads as "positive" even though the blood does not really contain HIV antibodies. Because of

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the risk of false positive results, a single positive ELISA test cannot determine accurately whether an individual is infected with HIV. Two repeatedly positive reactions on the ELISA test, confirmed with a positive Western Blot or IFA, define a positive test result.

A false negative test is one that fails to detect HIV antibodies in the blood of a person who actually is infected. This usually happens when a person is tested before antibodies have appeared. If tested less than six months after possible exposure to HIV, a false negative test result may occur. If this happens, a second test should be performed after six months has elapsed. Rarely does it take longer than six months for the antibodies to be detected, but a counselor may recommend repeated testing. During this time period, the person should refrain from any risky behaviors until the second test results are known.

A negative test result indicates the absence of HIV antibodies at the time of the test. A negative test result means that either HIV infection is not present, or that HIV infection is present but antibodies have not yet developed. A negative test result does not mean that a person is immune to HIV infection, or that the person cannot become infected with HIV in the future. A positive test result indicates the presence of HIV antibodies. A confirmed positive test result means that a person has been infected with HIV and probably will remain infected.

A positive result is not a diagnosis of AIDS. As mentioned in the introduction, being diagnosed with AIDS is no longer a quick death, unless it is detected late in the disease progression. With the many advancements in treating the disease, having AIDS is now

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more manageable. There have been cases of individuals remaining HIV+ for as long as ten years without having major medical problems, but by 10 years 75% of infected individuals have developed at least some symptoms of HIV infection.<sup>2</sup>

### Anonymous Versus Confidential Testing

Once the decision has been made to pursue testing, the decision of whether to take an *anonymous or confidential* test must also be made.

Anonymous testing is set up so that the person being tested does not give any personal identifying information at the test site and is only provided with a number at the time of testing. To obtain the results, the person returns to the test site for a post-test counseling session and the results are retrieved using that number.

In a confidential testing setting, some identifying information is taken from each person to be tested. When they return for their post-test counseling session, the results are retrieved using their personal information or identification. Although the files and results, and even the fact that a person has been tested, are to remain confidential and released only with the permission of the person tested, there are no guarantees this information will not be released.

Due to the still-prevalent stigma associated with this disease, whenever possible anonymous testing should be utilized. This will offer a person privacy and further protection from discrimination. There have been instances where a person has been denied insurance coverage simply because he/she took an HIV test. For some insurance

companies, the fact that a person was tested indicates that he/she is involved in risky behavior and, therefore, is not a good insurance risk.

An additional word of caution: do not encourage victims to go to their regular physician for an HIV test. General practitioners may not have the full training to provide pre- and post-test counseling and perhaps more importantly, the request to be tested and the results will become a part of the person's medical file and subject to release. If the test result obtained at an anonymous testing site is positive, then the victim may want to seek the services of his/her personal physician in conjunction with a physician who specializes in treating HIV/AIDS.

#### **What Are The Benefits Of Baseline Testing?**

Baseline testing is a term used to describe the first HIV test a person takes. This initial test will provide the person with crucial information that will assist him/her in determining the next step. If a person receives a confirmed positive test result, the next set of decisions will center on whether or not to pursue medical treatment, counseling or support groups and how he/she can protect others from the transmission of the virus. However, as mentioned earlier, if the baseline test result is negative, this does not mean that an individual who has been exposed to HIV is not infected. One negative test result only indicates that the body has not begun to produce antibodies to fight HIV. This first negative test result means that the person will need to have follow-up tests performed over the next year until he/she can be reasonably assured that he/she has not contracted HIV.

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After the suspected exposure which prompted the first test, the person should not engage in any risky behavior. It usually takes at least 2 weeks after exposure to HIV before any detectable antibodies are discerned using standard tests.<sup>3</sup> The vast majority of individuals infected with HIV have detectable antibodies within 3 to 6 months;<sup>4</sup> rarely, it may take longer. For a victim of rape, a baseline test given shortly after the attack will only tell the victim his/her HIV status *at the time of the attack*.

### Mandatory Testing

Of all the critical issues presented in this training program, perhaps none will generate as much discussion as the question about whether or not offenders should be tested on an involuntary basis. While the question of mandatory testing normally applies to victims of sexual assault, the issues that this question raises impact anyone dealing with the HIV/AIDS issue.

The push for mandatory testing of offenders began several years ago with the first realization that a victim of rape could potentially be exposed to HIV. The first Presidential Commission on the Human Immunodeficiency Virus Epidemic recommended mandatory testing of sexual offenders in their June 1988 Final Report.<sup>5</sup> They recommended that sexual offenders submit to an HIV test at the earliest possible juncture in the criminal justice process and that the results should remain confidential and be disclosed only to the victims, if they so desire, and to public health officials.

### Legislation Requiring HIV Testing of Sex Offenders - An Overview

In recent years, states have moved to give sexual assault victims access to information

about the HIV status of their offenders. The Florida legislature explicitly stated that:

[A] victim ... is entitled to know at the earliest possible opportunity whether the [offender] has tested positive for [HIV]. The Legislature finds that to deny victims access to HIV test results causes unnecessary mental anguish in persons who have already suffered trauma. The Legislature further finds that since medical science now recognizes that early diagnosis is a critical factor in the treatment of HIV infection, both the victim and the person charged with or alleged by petition for delinquency to have committed the offense benefit from prompt disclosure of HIV test results.<sup>6</sup>

As of the end of the 1994 legislative session, 40 states had adopted laws providing mandatory testing of sexual offenders in cases involving sexual penetration or other exposure to an offender's bodily fluids.<sup>7</sup> Of those, 31 apply to convicted adult offenders or adjudicated juvenile offenders in sexual assault cases. Some of those specifically include offenders who have pled guilty or nolo contendere, along with those actually convicted after trial. In others, the term "convicted" may be generally understood, or defined, to include pleas. Fifteen states have mandatory testing laws for those arrested or indicted for an offense.

Some states have mandatory testing both upon arrest and upon conviction, or make

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testing at one point discretionary and the other mandatory. Minnesota and Maine provide only that the judge has discretion to order testing of offenders, and then only after conviction or adjudication.

In about half of the states with mandatory testing laws, the victim must request that the offender be tested.<sup>8</sup> In some states the victim petitions the court directly; in others, the prosecutor files a petition at the request of the victim. Under many of the statutes requiring testing, there must be a showing of significant exposure of the victim to the bodily fluids of the offender. Most of the laws mandating the testing of offenders prior to conviction require a finding of probable cause that the defendant committed the offense, and that the circumstances of the offense resulted in significant exposure of the victim to the semen or other bodily fluids of the offender, placing the victim at risk of transmission of HIV.

Even if a state does not have a law specifically directed toward the testing of sex offenders, it may have a law permitting an individual to seek a court order for disclosure of confidential HIV information where the individual can demonstrate a compelling need for access to the information. New York and Vermont have such laws.<sup>9</sup>

Most, but not all, states that require testing of an offender also require disclosure of the results to the victim. In nearly every state that allows disclosure of the test results to the victim, the information is disclosed to the parents or guardian of a minor victim, and often is to be disclosed to the guardian of an incompetent victim. The statute then may permit the victim to disclose the matter to his or her spouse or sexual partner, or to his or her physician or counselor. Mississippi

requires that the victim and the victim's spouse be notified of the results. Alaska's law states that the information shall be confidential, but may be used by the victim in any subsequent civil action.

Laws may provide for counseling of the victim. For instance, in California and Iowa, victims are required to be counseled regarding the transmission of HIV and the nature and reliability of the test before a hearing can be held on the ordering of such a test. Such a requirement lessens the possibility that a victim will have unrealistic expectations about the nature of the test results. States may require that test results only be disclosed to a victim by a trained health professional or counselor. In other states, a victim is to be notified of the result of the test by a criminal justice official, and then may be referred to counseling on request. Counseling generally includes referral to health care and support services as appropriate.

Many of the laws specify the agency that shall pay for HIV testing and counseling, which may include HIV testing of the victim. This is often the health department, but may be the compensation board, or another governmental branch. In several states, the defendant may be required to reimburse the state for the costs of testing and counseling.

At the Federal level, the 1994 Federal Crime Act permitted sexual assault victims to apply for an order requiring the HIV testing of the defendant charged with a sexual offense. Testing will be ordered where the court finds probable cause that the defendant committed the offense, the test is requested by the victim after appropriate counseling, the court

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finds the information is necessary for the health of the victim, and the offense created a risk of transmission of the disease.

If the results of the initial test are negative, the court may order follow-up testing and counseling at six months and one year after the initial test at the request of the victim. The victim will be entitled to the results of such a test, but disclosure of any results must be accompanied by "appropriate counseling." The Act also provides payment for two tests for the victim during the 12 months following the offense, and for accompanying counseling regarding the accuracy of tests and the risk of transmission of disease to the victim as a result of the assault.<sup>10</sup>

The law regarding HIV testing of sex offenders and victims' rights of access to test results continue to change. For example, Arizona extended its testing law to juveniles in 1995.<sup>11</sup> To find the most recent law, check your state code at your local public library or the area law library. The statutes may be indexed under HIV, AIDS, human immunodeficiency virus or acquired immunodeficiency syndrome. Statutes passed within the last year can be obtained from your state legislature. Call your local legislator for assistance, or contact the legislature's general bill status office.

Many victim assistance professionals strongly support the passage of laws mandating the testing of sex offenders, while other victim assistance professionals believe that the push for these laws pulls the focus away from victims to offenders and interferes with providing the best services to victims. The question of testing opens a Pandora's box of issues which victim assistance professionals and victims need to consider.

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One of the concerns about mandatory testing legislation is the lack of consistency among the statutes. As demonstrated in the above comparison of legislation, one can see that many statutes are open to potential problems. Of particular concern is who has access to the offender's test results and who delivers the test results to the offender or the victim? In some states the law allows for the victim to receive the test results from a criminal justice official who will then refer the victim to counseling if requested. This method of notification creates situations in which an untrained individual could give extremely upsetting information to a victim without realizing how his/her own lack of training could potentially re-victimize the victim.

As mentioned earlier, confidential testing does not guarantee that a victim's test results will not be released. The U.S. Supreme Court in 1987 ruled that a defendant does not have free access to a victim's medical or psychological records. Due process requires that the trial judge would first review such information and determine whether to allow its release. However, two recent court decisions in Massachusetts depart from this ruling and grant the alleged offender's legal counsel the right to see the victim's records without showing necessity. Consequently, rape crisis advocates began to limit what information appears in a victim's case file. Another issue for consideration should be the potential compromise of rape shield laws. If the victim's records which show an HIV+ status are released to the offender's attorney, the defense could proceed with a strategy to explore the victim's sexual history to prove that he/she may have transmitted the virus to the offender. This information could also prove devastating to the victim if the offender decided to pursue a civil suit claiming the victim transmitted the virus to the offender.

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Another issue to consider is the complexity of transmission of the virus. As stated in the article, *HIV Testing, Counseling, and Prophylaxis After Sexual Assault*,<sup>12</sup> HIV is relatively inefficiently transmitted via sexual intercourse compared with other STD's, such as gonorrhea, syphilis, or hepatitis B, which may have per-contact infectivity rates as high as 25%. Two studies estimated the per-contact HIV infectivity rate from male to female via penile-vaginal intercourse at less than two per 1000 contacts, but others have reported higher rates. The presence of lesions or blood from violent assaults may significantly increase the probability of transmission. The risk of HIV transmission is highly variable, with some individuals infected after the first encounter, while others remain uninfected after hundreds of unprotected sexual contacts.

Due to the variables associated with transmission, determining the offender's HIV status could be misleading to the victim, giving either false hope or devastating news which may be inaccurate. If an offender is HIV+, it does not mean the victim will have contracted the virus. To be absolutely certain of the victim's status, the victim needs to be tested. It is this problem that is causing mandatory testing laws to be questioned.

For example, the New Jersey Supreme Court recently found it unconstitutional to require juveniles charged with or convicted of sexual assault to be tested for HIV with the results revealed to the victim. The court found that New Jersey's mandatory testing laws violated the juveniles' rights to privacy under the Fourth and Fourteenth Amendments of the Constitution of the United States. Even though the court recognized that the state has an interest in assisting and protecting victims of sexual assault, it found that the New

Jersey laws did not bear close and substantial relation to that interest. The court pointed to medical testimony that the results of the defendant's test would be irrelevant to the victim's need to monitor his or her own HIV status, due to the "window period" during which time an infected offender may test negative. While the case involved juveniles, the court's rationale is not limited to juveniles, and will affect testing of all offenders in that state.

It is not clear whether other states would follow the rationale behind the New Jersey court's decision. In addition, further advances in HIV testing and treatment would alter the basis for the court's decision.

With the focus on passing mandatory testing laws, valuable energy and money is being spent on a process that actually impacts very few victims. Consider the findings published by the National Victim Center and the Crime Victims Research and Treatment Center in *Rape in America*. Of the 683,000 victims of rape each year, only 16% ever reported their rape to the police. This leaves a very small number of offenders to be apprehended.<sup>13</sup> In 1993, nearly 53% of the 104,806 rapes reported to the police resulted in an arrest of at least one suspect.<sup>14</sup> Data from 1992 suggest that less than 20% of reported rapes resulted in a felony conviction (of an adult) with the average time between arrest and sentencing being 253 days.<sup>15</sup>

Given these statistics, current mandatory testing laws impact only convicted offenders. Waiting almost one year before a test can be administered wastes valuable time for victims.

To offer some recourse for victims of rape, the Working Group on HIV Testing,



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Counseling, and Prophylaxis After Sexual Assault, funded by a grant from the American Foundation for AIDS Research, has recommended the testing of an accused sex offender.<sup>16</sup> The Working Group included members working in infectious and sexually transmitted diseases, psychiatry, psychology, sociology, law, ethics, victim service programs, and a state health department.

Over several months in early 1993, this interdisciplinary working group reviewed the very complex issue of mandatory testing. Balancing the ultimate goal of voluntary testing (providing a person with the tools needed to make an informed voluntary decision regarding testing and treatment if indicated), and the reality that a victim of rape did not consent to the attack, the Working Group determined that allowing the testing of the accused would serve the important objective of providing information to the victim at the earliest opportunity. The Working Group did realize that certain procedural safeguards need to be created to reduce the chances of testing a wrongly accused person, to limit disclosure of the results, and to prevent punitive use of the information. For a full review of the issues considered by the Working Group, a copy of *The Journal of the American Medical Association* article summarizing the final report is located in the Appendices.

One of the concerns expressed by opponents of mandatory testing is that if certain groups are forced to submit to HIV testing, protection for other groups will be lost, opening the door for mandatory testing to be forced upon any group of individuals. For example, in the 1995 session of the Washington State Legislature, a so-called "Good Samaritan" bill was introduced in the House of Representatives (HB 1594) that would have forced HIV testing on anyone

who received emergency medical assistance from a stranger. In other words, if a person decided to help someone in a medical emergency, and they were exposed to bodily fluids, they would have the right to have the injured person tested for HIV and the results released to the good Samaritan. The bill passed the House with a 74 to 24 margin, but the chair of the Senate Law and Justice Committee declined to bring the bill up for a vote in the Senate. Although the bill failed to make it to the floor of the Senate, it is anticipated the bill will be resurrected in next year's legislative session.

Despite all of the arguments against mandatory testing, victim assistance professionals should ultimately support a victim's decision to request the mandatory testing of the offender. If after receiving all of the available information regarding the likelihood of transmission, the testing process and what the results mean, possible hearings required to request a test, and the potential legal implications, the victim still wants to pursue testing of the offender, then the victim assistance professional has a responsibility to assist the victim in pursuing this request.

### **Talking With Victims About Testing**

Talking with a victim about taking an HIV test should be approached in the same manner as any other issue regarding the impact of their victimization. Victim assistance professionals need to do their homework. They should be clear about the information they are about to pass on to a victim and know the resources and options available.

Several issues need to be addressed. First, review the victim's risk of infection and

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motivation to be tested. Discuss how the virus is transmitted and the specifics of how they believe they were exposed to the virus. Be sure to explain the testing process and the limitations of the test. Emphasize that the test is only for antibodies, not the virus itself, and therefore a negative result does not necessarily mean the virus has not been transmitted. Perhaps the most critical aspect to review is how they might react to the results and who they might need to tell about the results. When discussing the possibility of a positive result, reinforce for the person that a positive test result is not a diagnosis of AIDS. Like other people with chronic medical problems, HIV + people have a wide range of conditions – from no symptoms to very serious symptoms. As stated earlier in this chapter, the life span for HIV+ individuals has been greatly expanded by medical developments. Individuals now can and do live much longer than in the early years of the pandemic. By taking the time to review these issues in a nondirective and non-judgmental manner, a victim assistance professional will be helping the victim reach a decision about testing.

Keep in mind that anyone might approach a victim assistance professional to discuss testing. In addition to the considerations mentioned above, understand the various reasons a person wants to be tested and why someone would decide not to be tested.

A person may want to be tested if:

- He/she believes they have been exposed to HIV. Early medical intervention can delay the development of serious symptoms and may prevent or reduce complications;

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- ☛ Knowing the results, positive or negative, will enable the person to adopt safer sex practices or abstain from sharing IV needles;
- ☛ The person is pregnant or is considering becoming pregnant, breast-feeding, or fathering a child; and
- ☛ The person will be required to take a mandatory test and would rather receive anonymous testing before the result becomes a part of his/her permanent record.

A person may want to postpone testing if:

- ☛ The anonymous testing is not available and he/she is fearful of the potential social, legal, and economic consequences and discrimination if his/her result becomes known;
- ☛ Pre-test and post-test counseling is unavailable; and
- ☛ He/she is not psychologically ready to know his/her status. This is not a reason to delay testing indefinitely, but can be a reason to seek counseling in preparation to take the test.

It may prove helpful to explain the goals of a pre-test counseling session. Information is powerful to victims. Any clarification a victim assistance professional provides will assist the victim with making the decision to be tested. The primary goals of pre-test counseling are:<sup>17</sup>

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- ☞ To identify and clarify people's concerns and their risk for HIV;
- ☞ To check their understanding of how HIV is transmitted, how transmission can be prevented, and the meaning of the antibody test;
- ☞ To help people make more informed decisions by weighing the benefits and disadvantages for them having the test;
- ☞ To help people consider what might be their greatest concern if they were either HIV+ or HIV-;
- ☞ To provide them with information about the personal, medical, social, psychological, and legal implications of being diagnosed either HIV+ or HIV-; and
- ☞ To help prepare people for difficulties they may face in the future and to provide support for them, their family and their contacts.

Optimally, a victim will have received the test results from a counselor at the testing facility and therefore would have also received pre- and post-test counseling. However, if a victim does test positive, he/she may come to the victim assistance professional to discuss the results.

The victim assistance professional's very best skills will need to be employed to assist the victim with emotionally processing the results. If possible, develop a plan of support with the AIDS service provider. The victim assistance professional's role may be to remind the victim of the previous discussions about what the test results mean. Most likely they will have already been

referred for medical care or counseling by the testing facility, but if they have not, assist them with locating a supportive medical professional, counselor or support group. The victim may want to discuss treatment possibilities. For obvious reasons, this discussion and decision is best left in the hands of the treating physician. If a plan was formulated prior to testing about who the victim would notify, help him/her initiate or redesign that plan. The plan should also include discussing how they can avoid transmitting the virus by practicing safer sex.

Another aspect most likely covered in the post-test counseling session are changes in a person's approach to their health. It might prove beneficial to review some of these alternatives with the victim. It is believed that by eating healthier, getting more sleep, exercising, reducing stress, and avoiding alcohol and drugs, infected persons will be able to improve their quality of life and hopefully extend their life.

Adapting to living with HIV will take time and most likely will be a constant adjustment. A victim assistance professional can best assist a victim by assuring the person that support and assistance is available. During the initial months after a positive test result, the victim may revisit issues that have already been discussed. By remaining open to reviewing information and discussing the impact the disease is having on the victim, the victim assistance professional provides valuable assistance.

### **Cultural Sensitivity**

While it is universally understood that our society is composed of diverse cultures, religious doctrine and sexual orientations, do

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not assume that individuals in these groups share exactly the same beliefs or react to trauma in the same way. There are many factors influencing a person's reaction to trauma which can be considered when working with individuals from different cultures, religious backgrounds and sexual orientations. Although it is helpful to understand the unique practices, norms and beliefs of other groups, it is presumptuous to think that everyone in a given group responds in the same manner. This training program approaches the issue of cultural sensitivity from the perspective of how to avoid assumptions and elicit from the victim issues rooted in his/her own personal background. The suggested method is the client-centered approach, an approach that focuses on the specific reactions and needs of the person the victim assistance professional is helping. Information presented in this section is derived from the work of Nicolas Parkhurst Carballera, Director of the Latino Health Network, Boston, Massachusetts.

If one believes that all people can be somehow lumped into categories of white or non-white, then it should follow that the same techniques can be used for everyone in each group. The effect of using the same techniques to solve apparently similar issues without examining the particular characteristics involved can be illustrated by using a popular Puerto Rican tale about a little boy named Juan Bobo (English translation, John the Fool).

Juan Bobo had gone to his grandmother's house one very hot afternoon. He was going down by the river to play and his grandmother told him to take along some lemonade to drink when he became thirsty. He asked his grandmother what good that would do because by the time he got

thirsty the lemonade would have become warm. His grandmother told him to take the bottle and put it in a shallow part of the river with a rock on top of it to hold it in place. By doing this, she told him, the cold river water would keep the lemonade cool until he was ready to drink it. Juan Bobo went to play and did just what his grandmother had told him, and just as she had said the lemonade was nice and cold when he went to drink it.

The next week when Juan Bobo went to visit his grandmother she had a surprise for him. It was a puppy. Juan Bobo put the puppy on a leash and took it down to the river to play. After a while the puppy got very hot. Remembering what his grandmother had said about the lemonade, he took the puppy, put it in the river, and covered it with a rock. When he returned to get the puppy it had, of course, died. Juan Bobo was very upset and went and told his grandmother what had happened. She explained that what he should have done was to lead the puppy to the edge of the river, allow it to get a little bit wet, and then lead it home to the shade.

The next week when Juan Bobo came to visit his grandmother she had baked some bread for him to bring home to his mother. On the way home the bread began to feel very warm. So Juan Bobo found a rope and tied it around the bread. He

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dipped the bread into the river and dragged it home by the rope.



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This story shows how problems which may at first seem similar may also require different courses of action to correct. The point could also be made that African-Americans, Latinos and Asians may have about as much in common as a bottle of lemonade, a puppy, and a loaf of bread.

Victim assistance professionals must first examine their own biases. Self-examination is essential to realize that much of what is considered "normal" is culturally determined, and that others may have different perceptions of normalcy which have been defined by their cultures. Biases can be examined in four core areas:

- ☛ Motivation – Our view of progress, development, competition, collaboration, spirituality, etc.
- ☛ Relationships – Our view of roles based on age, class, gender, economic status, etc; as well as what we consider to be primary or close relationships as opposed to secondary or professional relationships.
- ☛ View of Others – Our world view, our concept of time, nature, human nature, morality and our views on difference.
- ☛ View of Self – What do we define ourselves as – individuals, part of a group? How do we gain self-worth, job, family, creativity?

After self-examination (which should be ongoing and repeated as new situations arise), new skills needed to work within the client-centered approach are developed. The **LEARN** model is designed to work with people about whom nothing is known and

whose cultures are different from the victim assistance professional's:

1. Listen actively for what are the core cultural values of the person.
2. Elicit the world view of the person. For example, give a scenario and ask, How would you or your family members deal with this situation?
3. Acknowledge similarities and differences between you and the person. Don't apologize for differences.
4. Recommend a series of options.
5. Negotiate. Give power back to the person. Ask questions such as, How much of this can or will you do? This approach makes it clear that it is up to him/her to do or not do any of what you have suggested. It provides an opportunity to check out what he/she remembers of what has been suggested, and also provides an opportunity to clarify any misconceptions.

While the client-centered approach is recommended, it is helpful for victim assistance professionals to have some understanding of the various groups they serve. For example, if a victim assistance professional provides services in a community that includes a large group of Cambodians, he/she should develop an awareness of some of their values, beliefs and attitudes. In the same way that understanding the crisis reaction assists in understanding how a particular victim is reacting, knowledge of the values, beliefs and attitudes of diverse groups provides

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additional tools for understanding victims' reactions in the context of those values, beliefs and attitudes. A victim assistance professional may benefit from attending classes on multi-cultural issues, human sexuality and race and ethnic relations.

### HIV/AIDS And The Workplace

The Centers for Disease Control estimate that more than two-thirds of companies with 2,500 or more employees, and nearly 1 in 12 small businesses (those with less than 500 employees) have encountered an employee with HIV infection or AIDS.<sup>18</sup> The majority of the estimated 1 million HIV-infected individuals are between 25 and 45 years of age, so about one in every one hundred adults is infected. They are most likely to be employed and in their prime working years. Sixty percent of the nation's work force falls within this age range. People in this age range also are among the most sexually active and, therefore, are at an increased risk of contracting HIV.<sup>19</sup>

Two surveys of employees reveal the concerns, fears and misinformation prevalent in today's workplace. The American Journal of Public Health recently conducted a survey of corporate and public service employees and found that seventeen percent believe HIV can be transmitted through coughing or sneezing, while twenty-three percent fear casual contact from an HIV-infected co-worker. One-third of these employees believe employers should not hire people with HIV, and one-third say they would be uncomfortable eating lunch with an infected co-worker.<sup>20</sup> A 1993 survey<sup>21</sup> conducted by the National Leadership Coalition on AIDS reported that one-half of the employees surveyed identified AIDS as their primary health concern and thirty-four percent know someone with HIV or AIDS. Sixty-seven

percent said their colleagues would be afraid to work with someone who is HIV infected. Seventy-five percent believe their employers should provide AIDS education. However, only twenty-eight percent reported receiving AIDS education at work.

As these responses demonstrate, HIV/AIDS is truly having an impact on today's workplace – whether it is recognized or not. This section of the training program will address the impact of the Americans with Disabilities Act, how to sensitize staff and volunteers to the issue of HIV/AIDS, and how to respond when staff, volunteers or colleagues are HIV positive.

### **The Americans with Disabilities Act**

The *Americans with Disabilities Act (ADA)* was created to further the full participation of people with disabilities by providing them with civil rights protection similar to that provided to individuals subject to discrimination on the basis of race, sex, national origin, and religion. It guarantees equal opportunity for individuals with disabilities in employment, public accommodations, transportation, state and local government services, and telecommunications. The ADA was signed into law on July 26, 1990, and became initially effective on January 26, 1992. The law was first applied to businesses with 25 or more employees, but as of July 26, 1994, any employer with 15 or more employees is subject to the ADA. Any agency, including law enforcement, prosecutors' offices, and criminal courts, receiving any type of government funding – Federal (including Victims of Crime Act funds received as a subgrantee through state government), state, county or city – must comply with this law,

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and the particular agency which administers such Federal funding may also dictate other requirements for compliance.<sup>22</sup>

The specifics of the ADA are:

### Title I: Employment Provisions

The ADA prohibits discrimination against qualified persons with disabilities because of their disability, allowing them the opportunity to become gainfully employed. If the individual can perform the essential job functions, with reasonable accommodations or none at all, the covered entity may not refuse to hire the person because of a disability.

### Title II: Public Service Provisions

State and local governments are prohibited from providing services in separate or segregated settings, when such services may be provided in community-based settings.

### Title III: Public Accommodations

Private establishments that are used by the general public are required to be accessible to people with disabilities who are customers, visitors, employees or clients.

### Title IV: Telecommunications

This provision is designed to provide hearing-and-speech-impaired persons telephone services that are functionally equivalent to the hearing community.

### Title V: Regulatory Provisions

Individuals may not be discriminated against because of opposing any act or practice outlawed by the Act or because that person has made a charge, testified, assisted or

participated in any manner in an investigation, proceeding, or hearing under ADA.

Title I and Title III are the most crucial aspects of the ADA for victim assistance professionals as they address issues of employment discrimination and accessibility to services. The ADA covers approximately 900 disabilities, including people with HIV/AIDS, people perceived to have HIV/AIDS, and anyone who associates or has a relationship with a person who has HIV/AIDS.

Under Title III, a victim assistance professional needs to ensure that all victims have access to their services. If the location of the agency is not physically accessible to everyone, changes must be made to eliminate barriers to access. If the changes are too costly, the services must be made accessible in some other manner. For example, if the only access to a victim services agency is by walking up stairs, the victim assistance professional could locate an office on the ground floor to meet with those individuals who would not be able to negotiate the stairs. A person who has limited vision may not be able to read written materials, i.e., instructions for court appearances or completing a victim impact statement. For these individuals, consider creating the documents in large type, Braille or on audio cassette.

Title I will impact victim assistance professionals in the workplace as it addresses the issue of discrimination in job application procedures, hiring, promotions, discharge, compensation, job training, and other terms or conditions of employment. An employer may not require a job applicant to take a pre-offer HIV test or inquire about HIV status. A test or inquiry may be made if it is made

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of all entering employees in the same job category and it is job-related and consistent with business necessity; however, HIV tests are almost never job-related or consistent with business necessity.

If an employer does require an HIV test or asks questions concerning HIV, he/she is obliged to keep all results and answers confidential. If a person tests positive, the employer may not rescind the job offer unless it can be shown that being HIV-negative is job-related and consistent with business necessity and that no reasonable accommodation would enable the person to perform the job. For example, a visually impaired person who uses a computer for work would be able to continue working if a voice-activated computer were made available.<sup>23</sup>

A person protected under the ADA must be able to perform the essential functions of his/her job with or without reasonable accommodation. Essential functions of a job are defined as those functions that are absolutely necessary to the successful performance of the job. A reasonable accommodation is defined as a modification or adjustment made to the work environment or in the way things are done so that a person with a disability is able to apply for a job, perform essential functions of the job, gain access to a worksite, and enjoy equal privileges and benefits of employment. People with HIV/AIDS may need time off for medical appointments, or they may tire more easily. By allowing a more flexible schedule, the employer is making a reasonable accommodation which allows the employee to continue working. An employer is not required to make changes if it will cause an undue hardship, or would, for example, involve significant difficulty or expense.

Victim assistance professionals can learn more about the ADA and its impact in the workplace by contacting the Regional Disability and Business Technical Assistance Center closest to them (See the Resource Section located in the Appendices). The ADA is enforced by the Disability Rights Section, Civil Rights Division, U.S. Department of Justice. They produce quarterly reports covering litigation and settlement agreements on violations of the ADA.

### **How Can Victim Assistance Professionals Sensitize Staff And Volunteers?**

Education is one fundamental method of avoiding claims of discrimination under the ADA. As demonstrated by the studies conducted by the *American Journal of Public Health* and the National Leadership Coalition on AIDS, employees want educational programs on HIV/AIDS. Through education, all employees will have a better understanding of the disease and their responsibilities under the law. One of the many cases formally settled by the Disability Rights Section which illustrates the need for education involved the Philadelphia Fire Department. Emergency medical technicians (EMT's) refused to treat an individual when they learned that he was HIV+. A complaint was filed and a formal settlement agreement was reached. The City agreed to conduct mandatory training of the Department's 2,300 EMT's and firefighters regarding universal precautions to prevent the transmission of HIV, as well as HIV/AIDS sensitivity training. The City also agreed to develop and publicize a written policy stating that individuals with disabilities shall be given the opportunity to benefit fully from its emergency medical services. The policy will include disciplinary measures for any employee who



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fails to follow the guidelines. In addition, the City gave the HIV+ man a written apology and paid \$10,000 in compensatory damages.

### How Can Agencies Create A Workplace Sensitive To HIV/AIDS Issues?

Business can ensure compliance with the ADA by implementing the following suggestions:<sup>24</sup>

If your business serves the public:

- ☛ Serve people with HIV or AIDS without discrimination.
- ☛ Eliminate physical or other barriers preventing access to your business, if possible.
- ☛ Arrange an alternative means of providing goods or services to persons with HIV or AIDS if physical or other barriers cannot be eliminated.

If your business has employees:

- ☛ Evaluate your hiring policies.
- ☛ Do not require pre-employment HIV testing for job applicants or HIV testing for current employees.
- ☛ Educate your employees about HIV and AIDS.
- ☛ Develop HIV/AIDS employment policies and communicate them to your employees.
- ☛ Protect the confidentiality of your employees' medical information and insurance records.

## Ten Principles For The Workplace<sup>25</sup>

*(Developed by The Citizens Commission on AIDS of New York City and Northern New Jersey):*

1. People with AIDS or HIV infection are entitled to the same rights and opportunities as people with other serious or life-threatening illnesses.
2. Employment policies must, at a minimum, comply with federal, state, and local laws and regulations.
3. Employment policies should be based on the scientific and epidemiological evidence that people with AIDS or HIV infection do not pose a risk of transmission of the virus to co-workers through ordinary workplace contact.
4. The highest levels of management and union leadership should unequivocally endorse nondiscriminatory employment policies and education programs about AIDS.
5. Employers and unions should communicate their support of these policies to workers in simple, clear, and unambiguous terms.
6. Employers should provide employees with sensitive, accurate, and up-to-date education about risk-reduction in their personal lives.
7. Employers have a duty to protect the confidentiality of employees' medical information.
8. To prevent work disruption and rejection by co-workers of an employee with AIDS or HIV infection, employers and unions should undertake education for all employees before

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such an incident occurs and as needed thereafter.

9. Employers should not require HIV screening as part of pre-employment or general workplace physical examinations.

10. In those special occupational settings where there may be a potential risk of exposure to HIV (for example, in some health-care settings), employers should provide specific, ongoing education and training, as well as the necessary equipment, to reinforce appropriate infection-control procedures and ensure that they are implemented.

### **How To Respond When Staff, Volunteers Or Colleagues Are HIV+ Or Living With AIDS**

In order to know how to respond when a staff member, volunteer or colleague discloses that he/she is HIV+ or living with AIDS, a victim assistance professional must understand workplace dynamics. People work for a variety of reasons. Some are motivated by the need to financially support themselves or a family, while for others the financial benefit is overshadowed by the satisfaction attained from working. In many instances, co-workers attain a level of closeness not unlike that of a family member or friend. In fact, individuals do develop friendships with their co-workers. These relationships can help build a teamwork ethic which advances the goals of the agency. When one member of the team is dealing with a personal crisis, co-workers can be affected in three ways:

1. They may be concerned about how the problems will affect someone they care about. They may also feel anxious and may wonder what they can do to help.

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2. They may be concerned about how the problems will affect getting the work done and may wonder if organizational goals will be met. They may also wonder if their own work loads could increase to offset another person's decreased capacity.<sup>26</sup>

3. They may be concerned about the spread of HIV/AIDS.

Some individuals may be afraid to disclose their HIV status to anyone at work, especially their supervisor. In the 1993 survey conducted by the National Leadership Coalition on AIDS, thirty-two percent of the employee respondents predicted that an HIV+ employee in their workplace would be fired or put on disability at the first sign of HIV-related illness. The stigma still associated with being HIV+ or living with AIDS may inhibit a person from disclosing his/her status to a supervisor for fear of losing his/her job or having some other sanctions instituted against him/her. Additionally, if a person decides to disclose his/her status to a supervisor, the additional fear may exist that the conversation will not remain confidential and co-workers may learn of his/her status.

One excellent way of combatting these fears is to establish policies for the workplace regarding HIV/AIDS. Such policies will outline for all employees that the agency conducts regular educational programs on HIV/AIDS for all employees; does not discriminate against individuals who are HIV+ or living with AIDS; will take disciplinary action against employees who harass co-workers who are HIV+ or living with AIDS; abides by the ADA; and keeps information confidential, allowing the person to decide if, and when, to share his/her status with colleagues. By implementing clear policies, openly supported by all

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management, staff will receive the message that its agency has a zero tolerance for the mistreatment of individuals who are living with HIV/AIDS.

### Assisting The HIV+ Or PLWA Employee

As discussed earlier in this chapter, it is important for a victim assistance professional to send the message that he/she is available to talk with anyone with concerns about HIV/AIDS. By creating a safe environment, a staff member, volunteer or colleague who needs to talk about his/her HIV status will turn to the victim assistance professional for help.

When someone discloses their status, the victim assistance professional should:

- ☛ Assure him/her that the information will remain confidential;
- ☛ Inquire if any accommodations are needed in work load or schedule;
- ☛ Ask if he/she needs any assistance with referrals for medical treatment, support groups, etc.;
- ☛ Ask if he/she wants to disclose his/her status to his/her co-workers, and if so, assist with developing a plan to do so; and
- ☛ Offer him/her ongoing support and assistance.

Making the decision to disclose his/her status to colleagues may be one of the more difficult decisions for someone living with HIV/AIDS. Some people are concerned about how their colleagues will react. Will they now be seen as the "AIDS person" or in

other stigmatizing terms? Regardless of the level of their relationships with colleagues, disclosing their status will change their relationships. Fearing these changes may convince the person to keep his/her status a secret. Although not disclosing may somewhat protect them, keeping a secret and possibly missing the support of caring colleagues may produce more of a burden. If a person decides to disclose his/her status, hopefully his/her workplace has instituted an HIV/AIDS educational program. If one does not exist, it would be beneficial to conduct a sensitivity training prior to the disclosure of a colleague's HIV status. The HIV+ person or PLWA should retain control over how his/her status will be disclosed. Someone may choose to tell close friends and allow them to tell others or a supervisor may be asked to make an announcement.

### **Preparing For Reactions From Colleagues**

The realization that a colleague is HIV+ or living with AIDS may elicit a wide array of responses from individuals. In addition to concerns about their colleague and the possible increased work load, some individuals may be fearful that they will "catch" the disease by sharing workspace with the infected individual; others, who are close to the infected person, most likely will feel the impending loss of their colleague/friend. The announcement may resurrect old feelings/traumas for some colleagues; while still others may be upset by the accommodations made in work schedule or work load for the infected individual. There are likely to be as many different reactions as there are co-workers. As with most experiences, not unlike the trauma of victimization, everyone reacts differently depending on their backgrounds and personal experiences. For these reasons, it is nearly impossible to provide suggestions for every

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possible situation. By following the basic tenets of crisis intervention and understanding the HIV/AIDS issue, victim assistance professionals should be able to appropriately respond to varied reactions from colleagues. It is important that everyone in the workplace has an appropriate forum or resource to turn to with his/her reactions. Employee assistance programs would be an excellent resource for staff. If this type of program is not available, the victim assistance professional can refer individuals to community resources.

### **How Does Assisting HIV+ Individuals Or PLWA's Impact Victim Assistance Professionals?**

During the day-to-day activities of most victim assistance professionals they are rarely confronted with a victim who has a life-threatening disease. While they do assist individuals who have experienced a trauma, and in many cases deal with grief and loss issues while assisting survivors of homicide victims, they rarely experience the death of a victim they have assisted. With the introduction of HIV/AIDS, victim assistance professionals will now experience helping a victim as he/she processes the knowledge that he/she has a disease which will most likely kill him/her.

Over the past several years a new term has been used to describe how working with crime victims has affected the victim assistance professional - vicarious traumatization. For many years the stress experienced by first responders (police, firefighters, emergency medical technicians) and other professionals who typically interact with a victim in the immediate aftermath of a crime has been recognized and addressed. With the recognition of the long-term interaction victim assistance professionals

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have with crime victims, the effects of vicarious traumatization are now being acknowledged. In her article, *Vicarious Traumatization of Victim Advocates*, Stephanie Frogge of Mothers Against Drunk Driving included the actual experiences of several victim assistance professionals. Common vicarious traumatization reactions are nightmares, hypervigilance and a lower tolerance for stress. One individual reported that she would yell at her children if they took their seatbelts off for a moment. For her, all that went through her mind was a case where in a split second a child who had taken off her seatbelt to assist another child was killed when a drunk driver struck the car in which she was riding.<sup>27</sup> For other victim assistance professionals who experienced victimization themselves, working with victims whose cases parallel their own presents a special challenge. And many victim assistance professionals find that they see how easily the victimization could have happened to them or a loved one. One woman realized that she needed to wait until the next day before returning the call of a family whose son was killed by a drunk driver while riding his bike. This particular case heightened her awareness that it very easily could have been her son who was killed while riding his bike.

With the understanding of how vicarious traumatization impacts victim assistance professionals, it begins to make sense that dealing with the HIV/AIDS disease will have an effect on these same individuals. People who work in the HIV/AIDS field experience their own version of vicarious traumatization. After only working in an AIDS service organization for a short amount of time, frontline AIDS service professionals will see many of their clients die. This takes an incredible toll and will most definitely



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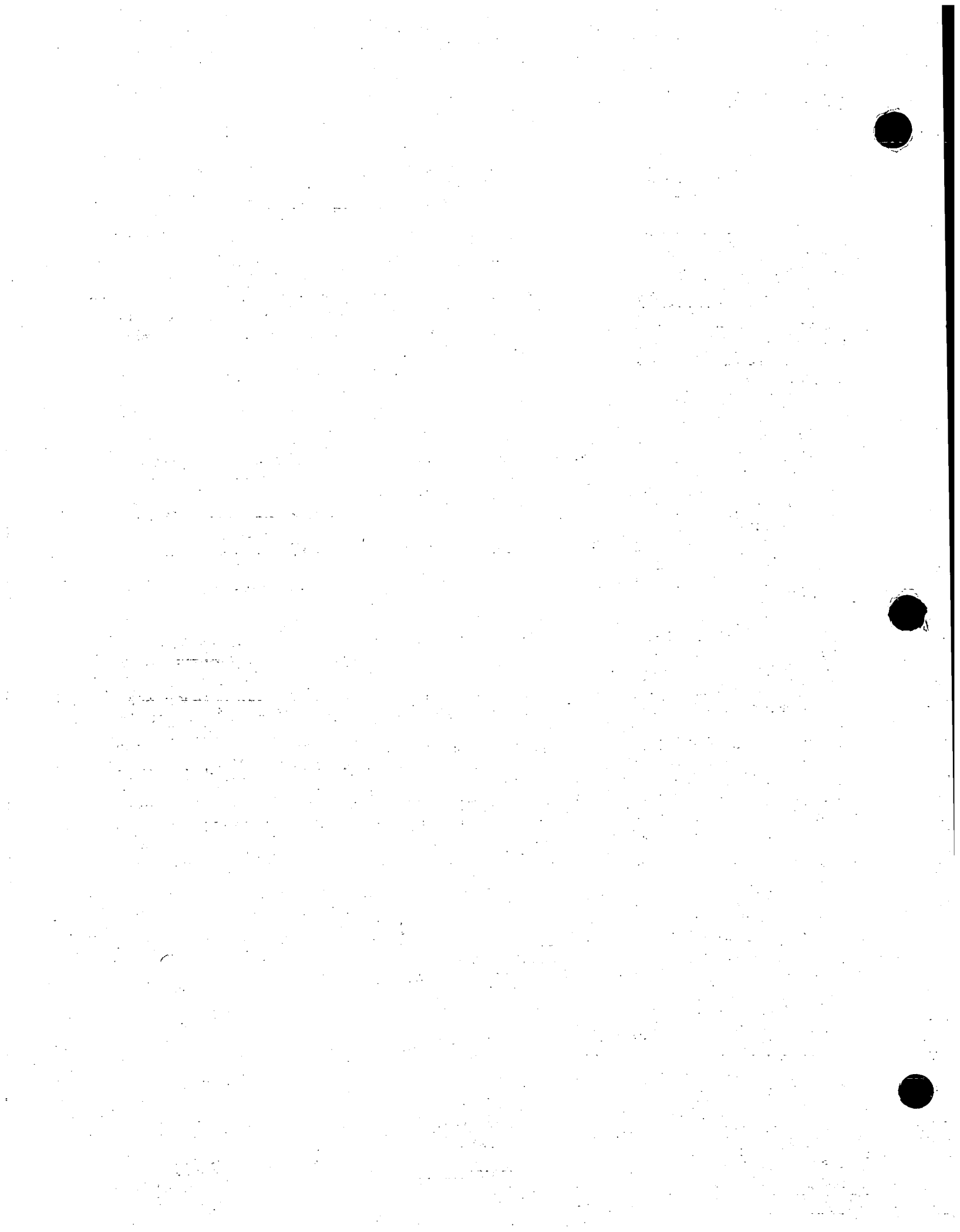
impact their lives. While the death of a client will have an effect, imagine the impact when the person who is living with the disease is a staff member, volunteer or colleague. The reactions will be magnified.

In their article on vicarious traumatization, Lisa McCann and Laurie Anne Pearlman provide the following suggestions to assist trauma counselors in reducing the effects of vicarious traumatization.<sup>28</sup>

1. Talk with others about his/her feelings and reactions. Perhaps form a support group which provides the forum to process reactions and receive support.
2. Create a balance between assisting crime victims and his/her personal life. Develop non-victim related activities that are fun and enjoyable. Volunteer for an organization where there is more hope and optimism.
3. Create boundaries between professional life and personal life. Limit the number of hours and days worked in one week. Be sure to take those few three-day holiday weekends.
4. Strive to be personally healthy and recognize when a break is needed.
5. Conduct a regular assessment of how work is impacting personal life. Recognize that keeping a healthy balance takes continual attention.

## ENDNOTES

- <sup>1</sup> Adapted from page 1437 of Gostin, Lawrence O., et al. (1994). "HIV Testing, Counseling, and Prophylaxis After Sexual Assault." *The Journal of the American Medical Association*, 271(18): 1436-1444.
- <sup>2</sup> Clayman, Charles B., ed. (1994). *The American Medical Association Family Medical Guide*. New York: Random House, p. 465.
- <sup>3,4,12,16</sup> Gostin, Ibid., p. 1438.
- <sup>5</sup> Watkins, James D. (1988). *Report of the Presidential Commission on the Human Immunodeficiency Virus Epidemic: Submitted to the President of the United States*. Washington, D.C.: Presidential Commission on the Human Immunodeficiency Virus Epidemic.
- <sup>6</sup> Florida Code § 960.003(1)(1994).
- <sup>7</sup> For purposes of this discussion, the term "mandatory" shall include laws that require a judge to issue an order for testing if certain conditions are met. Conditions may include request or petition by the victim, a finding of significant exposure or risk of transmission, and refusal on the part of the defendant to be tested voluntarily. If a statute merely permits a judge to order testing under given circumstances, that law will be considered discretionary.
- <sup>8</sup> Victims must initiate the process to order testing in 19 of the states that have mandatory testing, and in another 5 states in regard to discretionary testing.
- <sup>9</sup> New York PHL 2785; Vermont § 12-1705.
- <sup>10</sup> 42 U.S.C. 14011.
- <sup>11</sup> Ariz. Code § 13-1415.
- <sup>13</sup> National Victim Center and Crime Victims Research and Treatment Center. (1992). *Rape in America: A Report to the Nation*. Arlington, VA: National Victim Center.
- <sup>14</sup> Federal Bureau of Investigation. (1994). *Crime in the United States, 1993*. Washington, D.C.
- <sup>15</sup> Langan, Patrick A. and Helen A. Graziadel. (1995). *Felony Sentences in States Courts, 1992*. Washington, D.C.: Bureau of Justice Statistics, U.S. Dept. of Justice.
- <sup>17</sup> Bor, Robert, Riva Miller and Eleanor Goldman. (1993). *Theory and Practice of HIV Counseling: A Systemic Approach*. New York, Brunner/Mazel.
- <sup>18</sup> See Curran, in National Commission on AIDS. (1993). *HIV/AIDS: A Challenge for the Workplace*. Washington, D.C., p. 1.
- <sup>19</sup> See Hammock, Ibid.
- <sup>20</sup> See Camlin, Ibid., p. 4.
- <sup>21</sup> National Leadership Coalition on AIDS. (1993). *Employee Attitudes About AIDS: A National Survey*. Washington, D.C.
- <sup>22</sup> National Victim Center. (1994). "Differently-Abled Victims of Crime," from *Focus on the Future: A Systems Approach to Prosecution and Victim Assistance*. Arlington, VA.
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- <sup>25</sup> "The Workplace Profiles Project: Common Features & Profiles," by Alan Emery, Ibid.
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## RESOURCES

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### **AID Atlanta**

1438 West Peach Tree Street  
Suite 100  
Atlanta, GA 30309-2955  
404-872-0600  
Fax: 404-885-6799

Provides counseling, housing and emergency financial assistance. Conducts educational workshops and training sessions. Confidential HIV testing.

### **AIDS Action Committee of Massachusetts, Inc.**

131 Clarendon Street  
Boston, MA 02116  
617-450-1432  
Fax: 617-437-6445

The HIV/AIDS Resource Library provides information on the connections between HIV and domestic abuse, including a pamphlet entitled *When Your Relationship Puts You at Risk*. Also has a collection of information on women and AIDS.

### **AIDS Clinical Trial Information Service**

P.O. Box 6003  
Rockville, MD 20849-6003  
800-TRIALS-A  
(800-874-2572)  
TDD: 800-243-7012  
Fax: 301-738-6616

Provides information and referrals Monday through Friday, 9am to 7pm (EST) for federally and privately sponsored clinical trials for AIDS/HIV persons (primarily for patients and families).

### **American Foundation for AIDS Research (AmFAR)**

733 Third Avenue  
New York, NY 10017-3204  
212-682-7440  
Fax: 212-682-9812

Nonprofit organization dedicated to the support of AIDS research (both basic biomedical and clinical research), education for AIDS prevention, and AIDS-related public policy development.

**Blacks Educating Blacks About Sexual Health Issues (BEBASHI)**

1233 Locust Street

Suite 401

Philadelphia, PA 19107

215-546-4140

Education through presentations at schools, centers, and various other community-based organizations. Confidential HIV testing.

**Centers for Disease Control National HIV/AIDS Hotline**

**American Social Health Association**

P.O. Box 13827

Research Triangle Park, NC 27709

800-342-AIDS

800-344-SIDA (Spanish)

TDD: 800-243-7889

Fax: 919-361-8425

Provides information 24 hours a day, seven days a week, about HIV/AIDS and will send free, written information. Makes referrals to any organization or agency that provides information about HIV/AIDS, including legal services, counseling and therapies.

**CDC National AIDS Clearinghouse (U.S. Dept. Health and Human Services)**

P.O. Box 6003

Rockville, MD 20849-6003

800-458-5231

TDD: 800-243-7012

Fax: 301-738-6616

Distributes materials for use in educational programs. Helps employers develop AIDS-in-the-workplace policies. Provides expert referrals.

The CDC National AIDS Clearinghouse offers a variety of materials to the public. They include HIV prevention information on safer sex and abstinence, AIDS in the workplace, youth and HIV, racial and ethnic groups and HIV, resources for sexually active adults, HIV/AIDS and substance abuse, materials for people living with HIV/AIDS and caregivers, reports and statistics, materials in languages other than English, and fact sheets. They will do specified database searches upon request.

The Clearinghouse also provides a service called *NAC FAX*. It is a free, 24 hour fax-back service that offers over 50 selected documents, including CDC fact sheets, surveillance report tables, and information on other Clearinghouse services. For a complete listing of documents available, call 800-458-5231.

**CDC National Sexually Transmitted Disease Hotline**  
800-227-8922

Provides information Monday through Friday, 8am to 11pm (EST) on sexually transmitted diseases and prevention. Nationwide clinical referrals.

**Coalition of Hispanic and Human Service Organizations (COSSMHO)**

1501 16th Street, N.W.  
Washington, D.C. 20036  
202-387-5000  
Fax: 202-797-4353

Provides technical assistance and training programs on HIV and STD prevention for Hispanics.

**HIV/AIDS Treatment Information Service (ATIS)**

P.O. Box 6303  
Rockville, MD 20849-6303  
800-HIV-0440  
TDD: 800-243-7012  
Fax: 301-738-6616

Reference specialists (English and Spanish speaking) provide information Monday through Friday, 9am to 7pm (EST) on federally approved guidelines for treatment. Makes referrals to various therapies and counseling organizations.

**Library at the AIDS Information Network**

1211 Chestnut Street  
7th Floor  
Philadelphia, PA 19107  
215-575-1110  
TDD: 215-575-1125  
Fax: 215-575-1123

Provides access to national and international computerized databases and Spanish language materials. Distributes free pamphlets, and houses a large collection of books, articles, magazines, journals, videos and tapes on every aspect of HIV/AIDS.

**The Names Project (AIDS Memorial Quilt)**

310 Townsend St.  
Suite 310  
San Francisco, CA 94107  
415-882-5500

This project is a memorial for people who have died of AIDS. There are chapters around the country that provide portions of the quilt to display in churches, schools, etc. for community education, and that have panel-making groups. The quilt, which now makes

up over 30,000 panels, is shown in its entirety every few years. The next showing will be October 1996 in Washington D.C.

**National Association of People with AIDS (NAPWA)**

1413 K Street, N.W.

Washington, D.C. 20005

202-898-0414

Fax: 202-898-0435

NAPWA FAX: 202-789-2222 (AIDS information facts on demand)

NAPWA is a nonprofit organization that provides information services, educational resources, national advocacy, and technical assistance for community-based organizations. They publish *The Active Voice* newsletter.

**National Crime Victims Research and Treatment Center**

Department of Psychiatry and Behavioral Sciences

Medical University of South Carolina

171 Ashley Avenue

Charleston, SC 29425-0742

803-792-2945

Heidi S. Resnick, PhD, Assistant Professor of Psychiatry & Behavioral Sciences. Dr. Resnick conducts research on rape victims and HIV concerns. She can be contacted at the address above for more information.

**National Leadership Coalition on AIDS**

1730 M Street, N.W.

Suite 905

Washington, D.C. 20036

202-429-0930

Fax: 202-872-1977

Addresses HIV and AIDS as a workplace issue, assesses the growing impact of AIDS on business and labor, on both employers and employees, and works to prevent the spread of HIV by developing effective AIDS policies, practices and workplace education programs.

**National Minority AIDS Council**

1931 13th Street, N.W.

Washington, D.C. 20009-4432

202-483-6622

Fax: 202-483-1135

800-559-4145

Develops and guides national public policy initiatives on HIV/AIDS infection in communities of color. Provides technical assistance on organizational development to community-based organizations, such as training on financial management, fundraising,

grant writing and evaluation, and volunteer program management. Informs organizations about HIV/AIDS policy issues through regular publications, including newsletters and such publications as *The Impact of HIV on Communities of Color: A Blue Print for the Nineties*.

**National Native American AIDS Prevention Center**

2100 Lakeshore

Suite A

Oakland, CA 94606

800-283-AIDS (8:30am to 1pm and then from 2pm to 5pm, PST)

Conducts outreach to Native American organizations and communities. Operates a national clearinghouse for Native American specific help to HIV/AIDS educators, and provides technical assistance in community organizing.

**The Pediatric AIDS Foundation**

1311 Colorado Avenue

Santa Monica, CA 90404

310-395-9051

Fax: 310-395-5149

A national organization that identifies, funds and conducts pediatric AIDS research internationally.

**Regional Disability & Business Technical Assistance Centers**

**Americans with Disabilities Act**

800-949-4ADA (Toll-free for reaching any of the Centers. Voice & TDD.)

Ten regional centers provide information on ADA and referrals for additional specialized information. Centers offer technical and expert assistance, and training on the ADA Regulations and disability etiquette.

*Region I (CT, MA, ME, NH, RI, VT)*

207-874-6535 (Voice & TDD)

*Region II (NJ, NY, PR)*

609-392-4004 (Voice)

609-392-7004 (TDD)

*Region III (DC, DE, MD, PA, VA, WV)*

703-525-3268 (Voice & TDD)

*Region IV (AL, FL, GA, KY, MS, NC, SC, TN)*

404-888-0022 (Voice)

404-888-9098 (TDD)



*Region V (IL, IN, MI, MN, OH, WI)*  
312-413-7756 (Voice & TDD)

*Region VI (AR, LA, NM, OK, TX)*  
713-520-0232 (Voice)  
713-520-5136 (TDD)

*Region VII (IA, KS, MO, NE)*  
314-882-3600 (Voice & TDD)

*Region VIII (CO, ND, MT, SD, UT, WY)*  
719-444-0252 (Voice & TDD)

*Region IX (AZ, CA, HI, NV, Pacific Basin)*  
510-465-7884 (Voice)  
510-465-3172 (TDD)

*Region X (AK, ID, OR, WA)*  
206-438-3168 (Voice)  
206-438-3167 (TDD)

**Test Positive Aware Network**  
1258 West Belmont Avenue  
Chicago, IL 60657-3292  
312-472-6397  
Fax: 312-472-7505

TPA Network is a not-for-profit corporation that provides information and support to anyone concerned with HIV/AIDS issues. They publish *Positively Aware*, and *The Journal of Test Positive Aware Network*.

**Yale University**  
AIDS Program  
Yale University of Medicine  
Institute for Social and Policy Studies  
135 College Street, Suite 323  
New Haven, CT 06510-2483  
203-785-3243, 432-3341  
Fax: 203-737-5143, 432-5036

Kim M. Blankenship, PhD, Associate Research Scientist.  
Dr. Blankenship conducts research on HIV/AIDS, prostitution and health policy issues. She can be contacted at the address above for more information.

## Stalking

### Questions and Answers

#### What is Stalking?

The legal definition of stalking is defined primarily by state statutes. While statutes vary, most define stalking as a course of conduct that places a person in fear for their safety.

However, the term "stalking" is more commonly used to describe specific kinds of behavior directed at a particular person, such as harassing or threatening another person. But the variety of specific strategies employed and behaviors displayed by stalkers are limited only by the creativity and ingenuity of the stalkers themselves. Suffice it to say, virtually any unwanted contact between a stalker and their victim which directly or indirectly communicates a threat or places the victim in fear can generally be referred to as stalking.

#### Is Stalking a New Phenomenon?

No — the history of stalking behavior is as old as the history of human relationships. Stalking has always been with us — what is new is that, until recently, it was never labeled as a separate and distinct class of deviant behavior. Prior to its common usage and its subsequent designation as a crime, stalking was referred to as

harassment, annoyance or, in some cases, simply as domestic violence.

In the late 1980s and early 1990s, numerous high-profile cases involving celebrities began to catch the attention of the media and public policy leaders. Only then did such behavior begin to be described as "stalking."

Since then, stalking has become a common subject in the popular media. With the advent of blockbuster films — such as *Fatal Attraction*, *Cape Fear*, and *Sleeping with the Enemy* — and its coverage by the news media, "stalking" has become a household word.

#### How Common is Stalking?

Unlike most violent crimes, law enforcement officials do not track the incidences of stalking offenses as part of their normal crime reporting process. Since there has been virtually no empirical data available, no one knows just how common stalking cases are in the United States.

Best estimates indicate that as many as 200,000 Americans are currently being stalked; moreover, 1 in 20 women will become targets of stalking behavior at least once during their lifetimes.

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With the passage of the *1994 Crime Bill* by the U.S. Congress, which mandated the tracking and compilation of stalking crime statistics, experts will be able to determine the prevalence of this crime for the first time.

## Who Are Stalkers?

### *Demographically:*

Stalking is a gender neutral crime, with both male and female perpetrators and victims. However, most stalkers are men. Best statistics indicate that 75-80 percent (75-80%) of all stalking cases involve men stalking women. Most tend to fall into the young to middle-aged categories. Most have above-average intelligence. Stalkers come from every walk of life and every socio-economic background. Virtually anyone can be a stalker, just as anyone can be a stalking victim.

### *Psychological and Behavioral Profile of Stalkers:*

Unfortunately, there is no single psychological or behavioral profile for stalkers. In fact, many experts believe that every stalker is different, making it very difficult not only to categorize their behavior, but doubly difficult to devise effective strategies to cope with such behavior.

Forensic psychologists, who study criminal behavior, are just beginning to examine the minds and motives of stalkers. These psychologists have identified two broad categories of stalkers and stalking behavior — "Love Obsession" and "Simple Obsession."

### **Love Obsession Stalkers**

This category is characterized by stalkers who develop a love obsession or fixation on another

person with whom they have no personal relationship. The target may be only a casual acquaintance or even a complete stranger. This category represents about 20-25 percent (20-25%) of all stalking cases.

Stalkers who stalk celebrities and stars — such as David Letterman, Jodie Foster, and Madonna — fall into the category of love obsessionists; however, stalkers in this category also include those who develop fixations on regular, ordinary people — including co-workers, their aerobics instructor, casual acquaintances or people they pass in the street.

The vast majority of love obsessional stalkers suffer from a mental disorder — often schizophrenia or paranoia. Regardless of the specific disorder, nearly all display some delusional thought patterns and behaviors. Since most are unable to develop normal personal relationships through more conventional and socially acceptable means, they retreat to a life of fantasy relationships with persons they hardly know, if at all. They invent fictional stories — complete with what is to them real-life scripts — which cast their unwilling victims in the lead role as their own love interest. They then attempt to act out their fictional plots in the real world.

The woman who has stalked David Letterman for five years truly believes she is his wife. She has been discovered on Mr. Letterman's property numerous times, has been arrested driving his car and has even appeared at his residence with her own child in tow — each time insisting that she is David Letterman's wife.

Love obsessional stalkers not only attempt to live out their fantasies, but expect their victims to play their assigned roles as well. They believe they can make the object of their affection love them. They desperately want to establish a positive personal relationship with their victim.

When the victim refuses to follow the script or doesn't respond as the stalker hopes, they may attempt to force the victim to comply by use of threats and intimidation.

When threats and intimidation fail, some stalkers turn to violence. Some decide that if they cannot be a positive part of their victim's life, they will be part of their life in a negative way. Some even go so far as to murder their victims in a twisted attempt to romantically link themselves to their victim forever. This was the case with the man who shot and killed Rebecca Schaffer, the young actress and star of the television show *My Sister Sam*.

### Simple Obsession Stalkers

This second category represents 70-80 percent (70-80%) of all stalking cases and is distinguished by the fact that some previous personal or romantic relationship existed between the stalker and the victim before the stalking behavior began.

Virtually all domestic violence cases involving stalking fall under this rubric, as do casual dating relationships (commonly referred to as *Fatal Attraction* cases, named after the popular movie by the same title).

While this kind of stalker may or may not have psychological disorders, all clearly have personality disorders. One forensic psychologist has attempted to identify some of the common personality traits and behavioral characteristics among this category of stalkers. Stalkers in this class are characterized as individuals who are:

- Socially maladjusted and inept;
- Emotionally immature;

- Often subject to feelings of powerlessness;
- Unable to succeed in relationships by socially-acceptable means;
- Jealous, bordering on paranoid; and
- Extremely insecure about themselves and suffering from low self-esteem.

The self-esteem of simple obsession stalkers is often closely tied to their relationship with their partner. In many cases, such stalkers bolster their own self-esteem by dominating and intimidating their mates. Exercising power over another gives them some sense of power in a world where they otherwise feel powerless. In extreme cases, such personalities attempt to control every aspect of their partner's life. This behavior pattern was vividly depicted in the major motion picture entitled *Sleeping with the Enemy*, where the antagonist turns to intimidation and violence as the means to control every aspect of his victim/wife's life.

Since the victim literally becomes the stalker's primary source of self-esteem, their greatest fear becomes the loss of this person. Their own self-worth is so closely tied to the victim that when they are deprived of that person, they may feel that their own life is without worth.

It is exactly this dynamic that makes simple obsession stalkers so dangerous. In the most acute cases, such stalkers will literally stop at nothing to regain their "lost possession" — their partner — and in so doing, regain their lost self-esteem.

Just as with most domestic violence cases, stalkers are the most dangerous when they are first deprived of their source of power and self-esteem; in other words, the time when their victims determine to physically remove themselves from the offender's presence on a permanent

basis by leaving the relationship.

Indeed, stalking cases which emerge from domestic violence situations constitute the most common and potentially lethal class of stalking cases. Domestic violence victims who leave an abusive relationship run a 75 percent (75%) higher risk of being murdered by their partners.

Stalking behavior is as diverse as the stalkers themselves. Yet behavioral experts are beginning to identify patterns in the cycle of violence displayed by simple obsession stalkers.

### *Stalking Behavior Patterns and Cycles:*

Stalking behavior patterns closely mirror those common in many domestic violence cases. The pattern is usually triggered when the stalker's advances toward their victim is frustrated—regardless of whether the stalker is seeking to establish a personal relationship or continue a previously established relationship contrary to the wishes of the victim.

The stalker may attempt to woo their victim into a relationship by sending flowers, candy and love letters, in an attempt to "prove their love." However, when the victim spurns their unwelcome advances, the stalker often turns to intimidation. Such attempts at intimidation often begin in the form of an unjustified, jealous and inappropriate intrusion into the victim's life. Often these contacts become more numerous and intrusive over time, until such collective conduct becomes a persistent pattern of harassment. Many times, harassing behavior escalates to threatening behavior. Such threats may be direct or indirect and communicated explicitly or implicitly by the stalker's conduct. Unfortunately, cases that reach this level of seriousness too often end in violence and/or murder.

Stalkers, unable to establish or re-establish a relationship of power and control over their victims, turn to violence as a means of reasserting their domination over the victim. In some cases, offenders are even willing to kill their victims and themselves in a last, desperate attempt to assert their domination over the victim.

The evolution of the stalker's thought pattern progresses from, "If I can just prove to you how much I love you," to "I can make you love me," to "If I can't have you, nobody else will."

While this progression in behavior is common, no stalking case is completely predictable. Some stalkers may never escalate past the first stage. Others jump from the first stage to the last stage with little warning. Still others regress to previous stages before advancing to the next. It is not uncommon to see stalkers intersperse episodes of threats and violence with flowers and love letters.

As difficult as it is to predict what a stalker might do, it is at least as difficult to predict when he might do it. A few stalkers will progress to later stages in only a few weeks or even days. In other cases, stalkers who have engaged in some of the most serious stalking behaviors may go months or even years without attempting a subsequent contact.

It is this unpredictability that makes developing an effective response strategy so difficult in any particular stalking case. (See *INFOLINK*, No. 44, "Helpful Guide for Stalking Victims" for more information.)

### **Are There Laws that Make Stalking a Crime?**

While many states had laws prohibiting harassment and assault, it wasn't until 1990 that

California became the first state to pass a law which specifically made stalking a crime.

This law was passed in response to several high-profile cases in which the perpetrator stalked and eventually killed their victim. In each case, the victim had notified the police of their stalker's threatening behavior. Yet, in each case, the police said that unless the stalker acted on those threats, there was nothing they could do legally. The California law that for the first time outlawed stalking behavior was intended to give law enforcement officers the legal tool they needed to intervene in stalking cases before offenders acted upon their threats.

Since the passage of that first stalking law in 1990, all 50 states have enacted stalking laws. While each state stalking statute differs in both definition and approach, virtually all proscribe behavior that constitutes a pattern of conduct seeking to harass and/or threaten the safety of another.

Some of these early statutes came under constitutional attack due to the broad language used to describe stalking behavior. Some lower courts actually struck down these laws in a handful of states causing lawmakers in those states to re-draft their stalking statutes in order to cure such constitutional defects.

It was this concern over constitutionality that led Congress to mandate the formation of a special drafting committee to develop a model stalking code that would withstand any constitutional scrutiny. The National Criminal Justice Association — in conjunction with the National Institute of Justice, the National Victim Center, and numerous other criminal justice and victim organizations and experts — developed a *Final Report* that included a model stalking statute. In short, the model language makes it a crime to:

*Engage in a course of conduct that would place a reasonable person in fear for their safety, and that the stalker intended and did, in fact, place the victim in such fear.*

Beyond this basic definition of the crime, statutes include a wide variety of additional stalking-related provisions. For example, some state stalking statutes:

- Allow police to make warrantless arrests in stalking cases where probable cause exists;
- Make stalking a non-bailable offense under certain circumstances;
- Provide for automatic and emergency protective orders;
- Require mandatory psychological evaluation and treatment for stalkers;
- Establish sentencing enhancements in cases where the victim is a minor, or when there is a protective order in place against the perpetrator; and
- Create heightened crime classifications for stalkers who commit second stalking offenses.

It is important for victims to obtain a copy of the stalking law in their state to determine which of these special provisions are included in their state's statute.

Apart from state statutes, stalking victims should be aware of the recently passed federal legislation that makes it a crime to cross a state line in order to stalk another. Federal anti-terrorism laws may also apply in some stalking cases, allowing victims to bring charges in federal court

as an alternative to the state criminal court of their jurisdiction. These laws may also prove useful in stalking cases where the offender makes threatening phone calls from outside the state where the victim resides.

### **How are Stalking Laws Being Implemented?**

Statutes that establish new crimes, such as stalking, are not universally implemented or instantaneously enforced from the moment they take effect. There is often a considerable lag time in implementing new statutes as law enforcement officials, prosecutors and judges become familiar with the law and develop policies and procedures to implement them.

Since stalking laws are fairly new, victims cannot always be certain that law enforcement officials, prosecutors or even judges are aware of these new laws. Stalking victims may find it necessary to provide law enforcement officials with a copy of their state stalking statute, along with evidence which proves the stalker has violated the statute. Copies of such statutes can be found in your state's published criminal code, available in some public libraries and all law libraries.

### **How Do I File a Complaint Under My State's Stalking Statute?**

To file a complaint that will trigger an arrest and prosecution, it must be accompanied with sufficient evidence to establish "probable cause" that the stalker engaged in conduct that is illegal under the state's stalking statute. If law enforcement officials do not witness such conduct firsthand, it is often up to the victim to provide them with the evidence necessary to establish probable cause.

Again, victims would be well-advised to obtain a copy of their state's stalking statute in order to gain a clear understanding of what conduct constitutes an offense under the statute. While most state stalking statutes are written in laymen's terms, the exact meaning of those terms is not always clear. Victims may wish to consult with law enforcement officials, prosecutors, or a private attorney for an explanation and interpretation of the specific stalking statute in question.

In other words, stalking victims are often put in a position of having to first prove their case to a law enforcement official *before* being afforded the opportunity to prove their case before a court of law. It is for this reason that it is crucial for stalking victims to document every stalking incident as thoroughly as possible, including collecting and keeping any videotapes, audiotapes, phone answering machine messages, photos of the stalker or property damage, letters sent, objects left, affidavits from eye witnesses, notes, etc. Experts also recommend that victims keep a journal to document all contacts and incidents, along with the time, date and other relevant information. (See *INFOLINK*, No. 44, "Helpful Guide for Stalking Victims," for more information concerning evidence and safety strategies.)

Regardless of whether or not they have sufficient evidence to prove a stalking violation, victims wishing to file a stalking complaint with law enforcement officials should do so at the earliest possible point in time. In some cases, victims may also be able to file a complaint in the jurisdiction where the offender resides, if it is different from the victim's.

If law enforcement officials refuse to investigate, or if they are not responsive to a complaint filed, victims may always directly approach their local prosecutor (also known in various jurisdictions as, the district attorney, state's attorney, com-

monwealth's attorney or state solicitor).

It is also recommended that any person who suspects or believes that they are currently being stalked should immediately seek the advice and assistance of local victim specialists in developing a personalized safety plan or action plan. Victim specialists can be found at local domestic violence or rape crisis programs — which should be listed under "*Community Services Numbers*" or "*Emergency Assistance Numbers*" in the front section of the local phone book — or in victim assistance programs located in most local prosecutors' offices and in some law enforcement agencies — which should be listed under "*Local, City or County Government*" in the Blue Pages of the local phone book.

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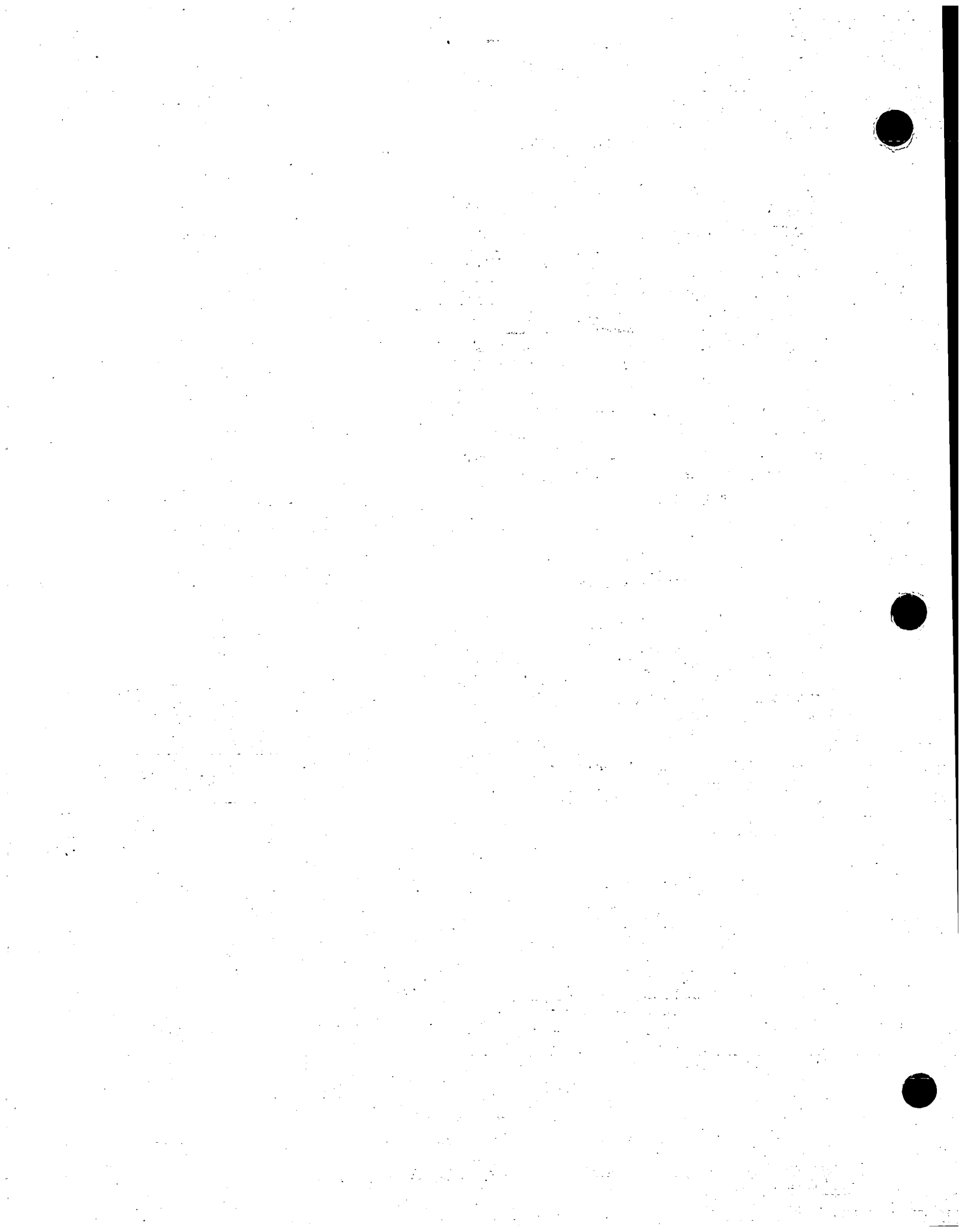
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## Helpful Guide for Stalking Victims

### Overview

Victims of stalking include individuals presently at risk for *imminent* danger to their physical and/or emotional welfare, and those with danger continually pending, but not *immediately* at risk for harm. In addition to becoming familiar with stalking laws that presently exist, victims of stalking should be informed about the resources and procedural precautions available to assist and protect them. It is important for stalking victims to recognize that their victimization is *not* their fault. Stalking is a crime that can touch anyone, regardless of gender, race, sexual orientation, socio-economic status, geographical location, or with whom a person may associate.

Unfortunately, there is no single psychological or behavioral profile for stalkers. Every stalker is different. This makes it virtually impossible to devise a single effective strategy for victims to cope with stalkers' behavior which can then be applied to every single situation and all circumstances. This is why it is so vital that victims of stalking immediately seek the advice of local victim specialists who can work with them to devise a safety plan or action plan to address their unique situation and circumstances. Victim specialists can be found in local domestic violence and rape crisis

programs, as well as in victim assistance programs in local prosecutors' offices and in some law enforcement agencies.

The following is *not* intended to be a set of strict guidelines for stalking victims, but rather practical information to assist them. There is *no guarantee* that if you follow all, or some, of these strategies that you will be safe; however, implementing these strategies may reduce your odds of physical or emotional harm from your stalker. Any persons who suspect or believe that they are currently being stalked should report all contacts and incidents to their local law enforcement authorities.

### Victims in Imminent Danger

The primary goal of a victim in imminent danger should be to locate a safe place for her/himself. Safety for stalking victims can often be found in the following places:

- Police stations;
- Residences of family/friends (location unknown to perpetrators);
- Domestic violence shelters or local churches, etc.; and/or

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- Public areas (stalkers may be less inclined toward violence or creating a disturbance in public places).

If departure from the current location is not possible, but a telephone is accessible, a victim may contact local law enforcement at 911 or any other law enforcement or emergency number. If the police do not respond, a victim can ask to speak to the police unit or division supervisor, or have someone who has assisted them in the past contact police.

In dangerous situations, family members or friends can assist in a victim's departure from their home or office. It is advised that as much caution as possible always be exercised when directly confronting the offender, as stalking sometimes escalates into violence.

Upon reaching safety, a victim may want to communicate with local law enforcement, victim services, mental health professionals and/or some social services agencies in order to receive additional assistance and referrals available in the community. A victim of stalking should always identify her/himself as such and request confidentiality of all information given and any records kept or filed. If the stalker caused property damage or physical harm, the victim may choose to file a report with law enforcement as soon as possible.

### **Victims in Danger, But Not Immediately at Risk**

While a victim may not be in immediate danger, she/he needs to assess the probability of impending danger. If a stalking victim determines that she/he is at risk for being in a potentially harmful or violent situation, the following options may be considered:

### **1. Restraining/Protective/Stay-Away Orders.**

- Generally, these orders require the offender to stay away from — and not interfere with — the complainant. If violated, they may be punishable by incarceration, a fine or both.
- These orders are typically obtained through a magistrate's office or local court. Contact the local clerk of court's office for information about where to obtain orders.
- Restraining orders are not foolproof — they often do not extend beyond certain lines of jurisdiction, and can only be enforced if they are broken. Victims should be cautioned against developing a false sense of security. In addition, some states only provide protective orders to former spouses or intimates. Moreover, it often costs money to obtain such an order due to the cost of filing fees, or in some courts and jurisdictions, to the need of obtaining legal assistance.
- Orders are not assured — they are at the court's discretion.

### **2. Stalking Laws.**

- Basically, stalking laws make it a crime to willfully, maliciously and repeatedly harass, follow or cause credible threat to another individual in an attempt to frighten or cause harm.
- A victim's state or municipality may have a stalking law either in effect, passed but not effective until a later date, or currently pending passage. In addition, some jurisdictions are not enforcing their

stalking laws, and in others the laws are under judicial challenge.

- A victim may contact her/his local prosecutor's office to inquire about the state and municipal stalking laws and their applicability to her/his case.

### 3. *Illegal Acts.*

- A victim may determine that the perpetrator has broken the law by entering the victim's residence without her/his permission, stealing and/or destroying the victim's property, physically and/or sexually assaulting the victims, etc.
- If so, these acts may be punishable. Notifying police of illegal acts may be important for the following reasons:
  - a) If convicted, the perpetrator may be incarcerated and/or ordered to stay away from the victim;
  - b) Charges may intimidate the offender, sending the message that his/her actions are illegal and will not be tolerated; and
  - c) Notifying the police produces documentation, which may be useful in a future complaint for evidentiary or credibility purposes.

### 4. *Documentation.*

- Documentation of stalking should be saved and given to law enforcement.
- Documentation of the actions of the perpetrator may be useful in future

complaints or proceedings, for evidentiary or credibility purposes.

- Documentation may take the form of photos of destroyed property/vandalism, photos of any injuries inflicted on the victim by the perpetrator, answering machine messages saved on tape, letters or notes written by the perpetrator, etc.
- A victim should keep a written log of any crimes or suspicious activities committed by the perpetrator. Discretion should be used when making entries and it should be kept in a secured place, as the log may be used in court proceedings.

### 5. *Contingency Plans.*

- While a victim may not be in imminent danger, the potential always exists; therefore, a contingency plan (a sort of "fire escape plan") may be appropriate. Suggested considerations include:
  - a) Knowledge of, and quick access to, critical telephone numbers, including:
    - Law enforcement numbers and locations;
    - Safe places (such as friends, domestic violence shelters, etc.); and
    - Contact numbers for use after safety is secured (such as neighbors/family, attorneys, prosecutors, medical care, child care, pet care, etc.).
  - b) Accessible reserve of necessities, including:

- Victims may wish to keep a small packed suitcase in the trunk of their car, or at another readily accessible location, for quick departure;
  - Reserve money may be necessary;
  - Other necessities — such as creditors' numbers and personal welfare items such as medication, birth certificates, social security information, passports, etc. — should be readily available;
  - Miscellaneous items — like always keeping as full a tank of gas as possible in the car, back-up keys for neighbors, etc. — are practical; and
  - If a victim has a child(ren), she/he may want to pack a few toys, books, or other special items belonging to the child.
- c) Alert critical people to the situation who may be useful in formulating a contingency plan, such as:
- Law enforcement;
  - Employers;
  - Family, friends, or neighbors; and
  - Security personnel.

## 6. Preventive Measures.

- ✓ Install solid core doors with dead bolts. If victim cannot account for all keys, change locks and secure spare keys.
- ✓ If possible, install adequate outside light-

ing. Trim back bushes and vegetation around residence.

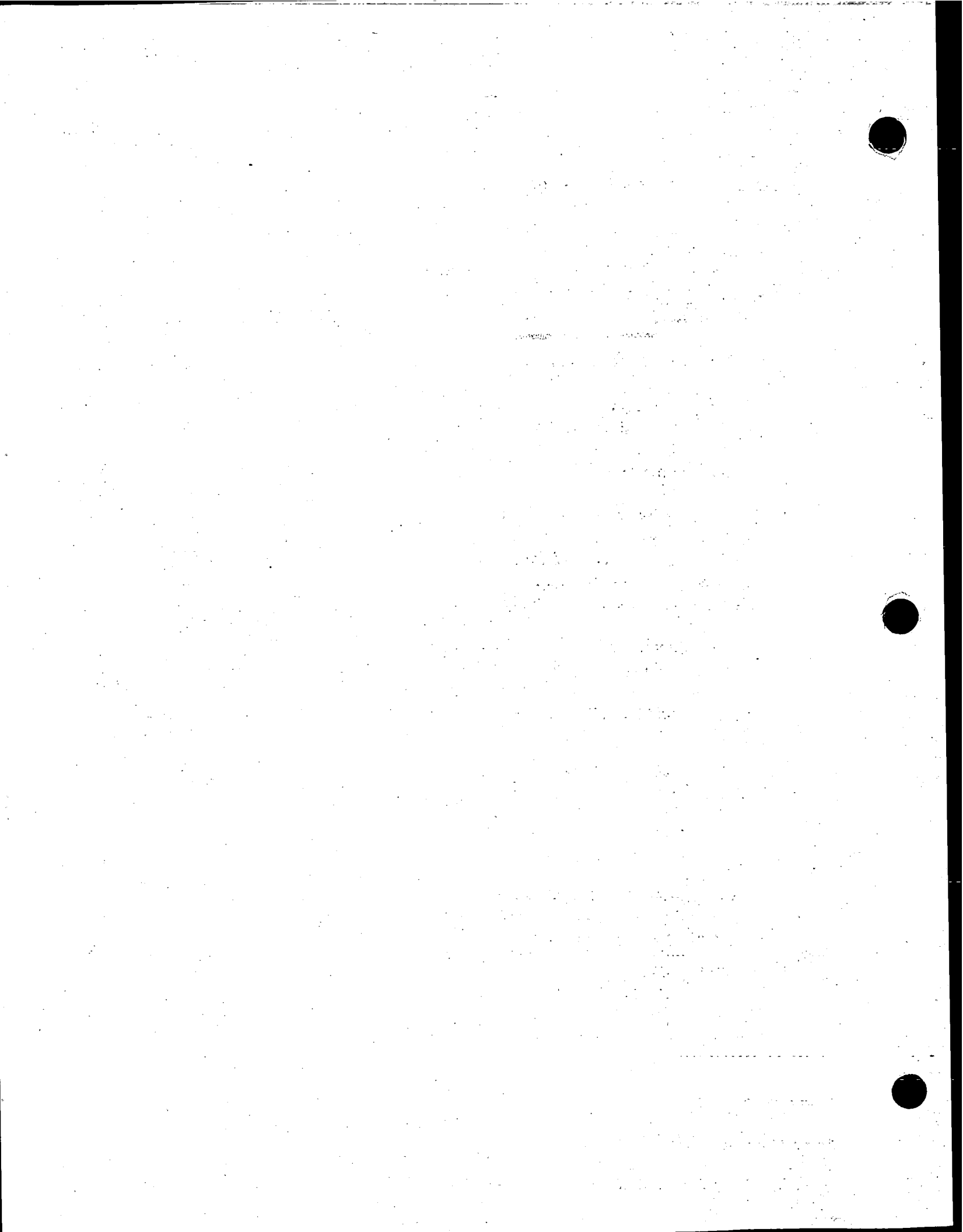
- ✓ Maintain an unlisted phone number. If harassing calls persist, notify local law enforcement, but also keep a written log of harassing calls and any answering machine tapes of calls with the stalker's voice and messages.
- ✓ Treat any threats as legitimate and inform law enforcement immediately.
- ✓ Vary travel routes, stores and restaurants, etc., which are regularly used. Limit time walking, jogging, etc.
- ✓ Inform a trusted neighbor and/or colleagues about the situation. Provide them with a photo or description of the suspect and any possible vehicles he/she may drive.
- ✓ If residing in an apartment with an on-site property manager, provide the manager with a picture of the suspect.
- ✓ Have co-workers screen all calls and visitors.
- ✓ When out of the house or work environment, try not to travel alone if at all possible, and try to stay in public areas. If you ever need assistance, yell "FIRE" to get immediate attention, as people more readily respond to this cry for assistance than to any other.
- ✓ If financial means exist, use a "dummy" answering machine connected to a published phone line. The number to a private unlisted line can be reserved for close friends and family, then the stalker may not realize you have another line.

## 7. Alternative Avenues of Assistance.

- Assistance may be obtained from local sources, such as:
  - a) Domestic violence shelters or counselors;
  - b) Rape crisis programs or counselors;
  - c) Victim assistance coordinators in the prosecutor's office; and/or
  - d) Law enforcement.
- Victim counselors may either give a referral number to the victim of a stalker, or offer to make the call and have someone from the referral organization or program contact the victim directly.
- The possibility exists that there will be no appropriate referral in the victim's vicinity. In such cases, local law enforcement agencies should be contacted.

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## Chapter 22

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# The News Media's Coverage of Crime

**Abstract:** The news media wield a "double-edged sword" in their coverage of crime and victimization relevant to the "public's right to know" versus "the victim's right to privacy." Victim service providers play crucial roles in protecting victims' privacy rights, and helping victims cope with media coverage immediately following a crime, during the trial, and following verdicts. Advocates must possess knowledge of who the media are, how they operate, and victims' rights and needs pertinent to dealing with the media.

**Learning Objectives:** Upon completion of this chapter, students will understand the following concepts:

1. Individuals and entities that comprise the news media.
2. Major concerns of victims and service providers when dealing with the media.
3. Guidelines for victims who choose to deal with the media.
4. First Amendment issues and precedents relevant to victim privacy.
5. The role and responsibilities of the victim advocate in helping victims deal with the news media.



## Impact of News Media Reporting on Crime

Crime in America is big news. According to a *Media Monitor* report published in January 1994, "The public is preoccupied with violent crime. The number of Americans naming crime as the nation's most important problem jumped six fold (from 5% to 31%) between June 1993 and January 1994 (according to *Washington Post/ABC News* polls) (Litter and Litter, 1994).

The public was hit with a wave of crime news in 1993, as a record number of crime stories reached the national TV audience. The three major networks aired nearly 1,700 crime stories that year, nearly five stories per night. Not only did overall crime news double from 1992 levels, but coverage of murder tripled, from 104 to 329 (Litter and Litter, 1994).

Media reporting of crime and victimization -- in both print and broadcast formats -- has far-reaching effects on a number of populations and special interests:

### The American Public

The media play a significant role in public safety by keeping citizens apprised of increases and decreases in crime, trends in violence and victimization (that are specific to national, state, local and even neighborhood targeted audiences), efforts to prevent crime, reduce violence, and assist victims (including new and existing programs, policies, and legislation), and measures individuals and communities can take to promote safety.

### The Criminal Justice System

Coverage of criminal justice system activities offers citizens an overview of the entire justice process, from law enforcement to prosecution through probation, parole and corrections. The news media's examination of individual cases has resulted in groundswells of public opinion and action that have, in many cases, ultimately changed the way our criminal justice system operates. In addition, the emergence of cameras in the courtroom and the Court TV network have expanded the American public's knowledge of the myriad intricacies that comprise our justice system.

The criminal justice system is also affected by its attempts to preserve the sanctity of criminal cases and, in some cases, protect victims' privacy. The espoused theory of the "public's right to know" often puts the media in direct conflict with system officials who believe that case confidentiality is essential to obtaining criminal convictions.

## **The Media Profession**

Over the past decade, coverage of crime and victimization has drastically changed. For example, in 1985, footage of bodies and/or body bags on national networks elicited organized outcries from victim advocates across the nation. Today, such footage is commonplace. The volatile issue of identifying victims of sexual assault in the media has been debated and analyzed from both victim advocacy and First Amendment perspectives, with little consensus from either side of the argument.

However, the past ten years have also witnessed an increase in media professionals who seek sensitivity training from crime victims and advocates so that they can accurately cover crime stories with the least amount of trauma to the victim. Today, crime victims and service providers offer training programs to newsrooms, professional journalism associations, and university-level journalism classes about media sensitivity in addressing violence and victimization.

Journalists who cover crime beats are also affected by the scope and demands of their jobs. Those who cover the horror and degradation of violence on a regular basis have few outlets for the personal trauma they must endure. As such, there is high demand for a protocol to "debrief" journalists whose assignments include regular coverage of violence.

## **Victim Service Providers**

The increase in the news media's coverage of crime and victimization has resulted in a very specialized discipline within the field of victim services: Advocating for crime victims whose cases are covered by the news media. Training programs to help service providers better work with the news media who cover crime and victimization, as well as guidelines in media relations that help them enhance their professional relationships with the news media, are regularly offered at training conferences and as a component of victim service professional education.

## **Crime Victims**

The constituency most affected by the news media coverage of violence and victimization is crime victims. While sensitive coverage of victim's cases can be helpful and, in some cases, even healing, media coverage that is sometimes viewed as insensitive, voyeuristic and uncaring compounds victims' emotional and psychological suffering.

Most crime victims have never before dealt with the news media. They are thrust, often unwillingly, into a limelight they do not seek and do not enjoy solely because of the crimes committed against them. Many victims describe the initial assault from the perpetrator, a secondary assault from the criminal justice system, and a tertiary assault at the hands of the news

media. As ABC News and Political Analyst Jeff Greenfield explained in 1986, "What weighs in the scale is not simply the desire of a victim for privacy . . . but the prospect of further victimization beyond the involuntary thrust into the public arena. And this is something that the journalism community must begin to consider in its daily business" (Greenfield, 1986).

## The Major Concerns of Crime Victims and Service Providers

In addition to privacy protections, the National Victim Center has identified 14 significant concerns that crime victims and service providers have in regards to the news media's coverage of crime and victimization (Seymour and Lowrance, 1988, pp. 5-7).

- *Interviewing at inappropriate times.* "Inappropriate times" for interviewing victims include, but are not limited to, immediately following a crime, at funerals, in hospital settings, and during trials when the judge or prosecutor has issued a gag order to witnesses. It is during these periods that a victim's trauma and distress tend to be extremely high; dealing with the news media can create a secondary victimization that compounds the victim's tragedy caused by the violent crime.

A 1992 study of homicide survivors found that 92% of respondents felt that "it is *not* appropriate for a television news reporter and camera crew to approach a grieving individual immediately following a death" (Fritz, 1992, p. 91). The feelings of many victims at the crisis stage following a crime were summed up by the mother of a murdered daughter:

"You're in such a state of shock, you're not thinking in terms of newspapers. . . . You're not prepared for this . . . I thought I'd come home by myself and cry my eyes out, but there already were 500 people waiting when I got home. We're not ready. We're numb. We don't know what's going on" (Grotta, 1986, p.10).

- *Using euphemisms to describe victims and offenders.* Euphemisms are often utilized by journalists and, in particular, newspaper headline writers to capture the essence of a violent act in a brief, memorable manner. However, in doing so, the identity of the victim can be demeaned and even lost. Most Americans remember the notorious "Preppie Murder" in Central Park in the 1980s, but how many people can recall the name of the victim, Jennifer Levin?
- *Glamorizing the offender.* The following words were used at various times to describe a well-known criminal: "handsome"; "intelligent"; "rape crisis center volunteer"; and "law school student." The man who was so described was Ted Bundy, one of our

nation's worst mass murderers. While such descriptions may be essential to a news story, what often adds insult to the victim's injury is the lack of such detail in describing the victims of such heinous criminals.

- *Exhibiting aggressive behavior toward victims, survivors and their advocates.* The pressure to obtain a news story, often under a tight deadline, can lead some journalists to be overly aggressive to victims, their loved ones, and victim service providers. A television photographer illuminated this problem when he noted:

"I think at times we don't take into consideration what these people have been through. There is pressure there, someone breathing down your back to go out and get that story, get that interview. We should be more sensitive to these people's feelings. Sometimes I think we're a bit too aggressive" (Grotta, 1986, p. 7).

- *Ignoring victims' and survivors wishes.* The issues of control and decision making are essential to a victim's reconstruction following a crime. Since victims do not choose to be victimized, their ability to make decisions and have some degree of control over their lives following a violent crime is very important. Crime victims' wishes relevant to the news media's coverage of their cases should be respected and followed.
- *Filming and photographing scenes with bodies, body bags, and blood.* Many victim service professionals believe that the steady diet of gory crime scenes – often involving murdered victims, body bags and blood – portrayed in broadcast and print media contributes to individual and collective desensitization to violence and the personal tragedy it wreaks on victims and survivors of crime.
- *Repeatedly using crime scene footage as a "lead-in" to newscasts.* When a broadcast medium chooses to show crime footage as the "lead-in" prior to a newscast, it can re-victimize anybody who was involved in that specific crime. One victim told of watching the evening news and seeing a body bag containing her husband:

"There was no warning to the family that this was upcoming. You look up and there's his body. That's offensive. You can't be any more offensive than that" (Grotta, 1986, p. 7).

- *Reporting innuendoes.* The "double-edged sword" wielded by the media who cover crime is often evident when victims, their loved ones, and law enforcement officials refuse to be interviewed for reasons including the need for privacy, or to preserve the sanctity of the criminal investigation or case. In such cases, some media rely on interviews with third parties, including neighbors and people who may, or may not, have known the victim, to obtain details about the victim and/or alleged perpetrator. However,

such hearsay interviews often cannot be relied upon for accuracy, and can invoke additional trauma for victims.

- *Interfering in police investigations.* The need for cooperation among law enforcement, other criminal justice officials, and the news media is essential to criminal investigations and prosecutions. Often, details that journalists consider key to a good story are also details that must be kept confidential in order to successfully complete a criminal investigation.
- *Referring to drunk driving crashes as "accidents".* The public awareness generated over the past two decades by Mothers Against Drunk Driving, Remove Intoxicated Drivers, and other victim advocacy organizations has successfully educated citizens about the dangers of drinking, drugging, and driving. There is nothing "accidental" about a person who chooses to drink and drive, resulting in a crime that injures or kills another human being. Many journalists have begun referring to such tragedies as "crashes" or "crimes," which more accurately describes the criminality of driving under the influence of alcohol or other drugs.
- *Failing to cover a crime at all.* Societal biases in America are sometimes reflected in news reporting. The length of news copy and scope of broadcast coverage tend to vary based upon the victim's race, where they live, socio-economic status, and other factors that have nothing to do with the crime committed against them. These issues were elaborated upon in an article by the associate editor of a large metropolitan daily newspaper:

"When city editors get calls from the crime reporter, often the first question asked is 'Where did it happen?' The news team's reaction to the crime is often predicated on where the crime occurred. If it's at one of the projects in predominantly black and Hispanic West Dallas, we call in a brief; it's in white, fashionable University Park, we roll a reporter or two. That attitude is unlikely to change" (Sotomayer, 1987).

Such institutional biases can only be changed with continual training on cultural sensitivity, particularly as it relates to the coverage of crime.

- *Identifying child victims.* The criminal justice system goes to great length to protect the privacy of child victims, recognizing that any public identification of children's emotional, physical or sexual assaults can have devastating consequences. The media should similarly respect the privacy rights of child victims, and should avoid all reporting that in any way contacts or identifies victims of child abuse. In cases of incest allegations or convictions, journalists should not identify perpetrators if the child victim is in any way at risk of also being identified.

- *Attempting to interview survivors of homicide victims prior to official death notifications by law enforcement.* In homicide cases, the news media should always ascertain whether or not surviving family members of the victim have been notified of their loved one's murder. One victim recalled driving his car on a Florida freeway and hearing a radio report of his brother's brutal murder at the hands of a high-profile, and yet unidentified, killer. The shock and grief associated with the news media's reporting of violent deaths prior to sensitive death notification comprise a second tragic victimization that can be easily avoided with communication and cooperation between law enforcement and the media.
- *Inaccurate reporting.* Accurate media coverage of details of a crime, however minute, are very important to crime victims and survivors. For example, inaccurately reporting of the age of a homicide victim can have traumatic consequences on that victim's surviving family members. Factual reporting of all details associated with a crime is critical to not only to the media's underlying philosophy of accuracy, but also to a victim's efforts to reconstruct his or her life following a crime.

## **Guidelines for Victims Who Choose to Deal With the Media**

A brochure published by the National Victim Center in 1987 entitled "Victims' Rights and the Media" offers valuable guidelines to crime victims whose cases are covered by print and broadcast news media. While the "rights" enumerated in this brochure are not mandated by statute or policy, they should be considered guiding principles provided by all service providers to crime victims prior to dealing with the news media:

### **You have the right:**

1. To say "no" to an interview.
2. To select the spokesperson or advocate of your choice.
3. To select the time and location for media interviews.
4. To request a specific reporter.
5. To refuse an interview with a specific reporter even though you have granted interviews to other reporters.
6. To say "no" to an interview even though you have previously granted interviews.

7. To release a written statement through a spokesperson in lieu of an interview.
8. To exclude children from interviews.
9. To refrain from answering any questions with which you are uncomfortable or that you feel are inappropriate.
10. To know in advance the direction the story about your victimization is going to take.
11. To avoid a press conference atmosphere and speak to only one reporter at a time.
12. To demand a correction when inaccurate information is reported.
13. To ask that offensive photographs or visuals be omitted from broadcast or publication.
14. To conduct a television interview using a silhouette or a newspaper interview without having your photograph taken.
15. To completely give your side of the story related to your victimization.
16. To refrain from answering reporters' questions during trial.
17. To file a formal complaint against a journalist.
18. To grieve in privacy.
19. To suggest training about media and victims for print and electronic media in your community (Seymour and Lowrance, 1988, pp. 7-10).

## **The Public's Right to Know Versus the Victim's Right to Privacy**

The question of where a society's right to know ends and an individual's right to privacy begins is one of journalism's thorniest ethical dilemmas (Thomason and Babbili, 1988).

This double-edged sword has serious implications for victims and those who serve them. While the legal aspects relevant to the First Amendment are quite clear, ethical considerations that take into account the traumatic nature of victimization and related news coverage are much more complex.

There have been two precedent-setting decisions handed down by the U.S. Supreme Court relevant to the privacy rights of crime victims.

In *Florida Star v. B.J.F.*, a weekly newspaper in Jacksonville published a news article that identified the name of a sexual assault victim, violating its own policy of protecting the privacy of rape victims. The resulting appeals and ultimate High Court decision rendered in 1989 were summarized in a 1990 *Mercer Law Review* article:

In *Florida Star v. B.J.F.*, the Supreme Court invalidated a Florida statute proscribing the newspaper publication of the identity of sexual assault victims. In making its determination, the Court balanced the state interest of protecting the privacy of assault victims against the first amendment concerns of the free press. The Court did not focus on the privacy right of the plaintiff as much as it considered the inability of the statute to achieve its desired goal. Accordingly, the Supreme Court found the Florida statute unconstitutional primarily because of its failure to protect the privacy of assault victims effectively without an impermissible intrusion on the first amendment freedom of the press (Hughes, 1990).

The constitutionality of a Georgia law that prohibited the identification of rape victims by the news media was called into question in a case involving a television station's reporting of the name of a deceased rape victim. When *Cox Broadcasting Corporation v. Cohn* was appealed to the U.S. Supreme Court, Justice White noted in the affirming opinion that the "commission of crime, prosecutions resulting from it, and judicial proceedings arising from the prosecutions . . . are without question events of legitimate concern to the public and consequently fall within the responsibility of the press to report the operations of government" (*Cox Broadcasting Corp. v. Cohn*, 1975, p. 493).

There are several arguments adopted by journalists in support of identifying victims of crime and, in particular, victims of sexual assault and rape. First, the public's right to know any information that is part of public record (i.e. law enforcement or court documents) is frequently cited. Next, some journalists believe that, in the name of fairness and equity, the victim's identity should not be protected when the name of the alleged assailant is published or broadcast, particularly when the defendant is found not guilty. Finally, some journalists believe that identifying rape victims will somehow eliminate or reduce the stigma that is often associated with sexual assault.

However, research clearly shows that crime victims, service providers, and American women in general strongly support protecting the privacy of rape victims. Key findings from *The National Women's Study*, as reported in "Rape in America: A Report to the Nation," include the following:

- Eighty-four percent of rape victims do not report to the police.



- Half of rape victims (50%) would be "a lot more likely to report" to police if there was a law prohibiting the news media from disclosing their name and address, with 16 percent indicating they would be "somewhat more likely to report" rapes to the police.
- Almost nine out of ten American women (86%) felt victims would be less likely to report rapes if they felt their names would be disclosed by the news media.
- An overwhelming majority of American women (75%), rape victims (78%) and rape service agencies (91%) favor legislation that would prohibit media disclosure of rape victims' names (Kilpatrick, Edmunds, and Seymour, 1992).

Recent surveys of American newspaper editors have shown that most do not routinely publish the names of rape victims. In 1982, Oukrop reported that 68 percent of the editors she surveyed believed names of rape victims should not be published (Oukrop, 1982, p. 21). Wince (1991) surveyed editors in 1990 and found that 9.6 percent said rape victims should never be named; 39.6 percent said they should be named only with the victim's permission; and 43.6 percent said they should be named only in exceptional cases.

Furthermore, more news media today are addressing the issue of rape than ever before. In "Newspaper Coverage of Rape: Editors Still Reluctant to Name the Victim," the following data were revealed:

- The topic of rape coverage had been discussed in respondents' newsrooms, with 57.5 percent noting that their paper had seriously re-examined policy on rape identification, and 55.2 percent saying that they had re-examined policy on rape coverage in general.
- More than 40 percent believed their own newspaper is more sensitive toward rape victims than five years ago, and more than 50 percent said they believed newspapers as a whole are more sensitive.
- Almost one-fourth of the editors (22.6 percent) disagree with the idea that routine printing of the names of rape victims would remove the stigma of rape.
- Only 24.3 percent of respondents agreed that not printing names of rape victims was a violation of the public's right to know.
- However, they indicated that the decision to withhold a name should be the newspaper's, not a result of legislation that keeps the name from the press. Almost three-fourths of the editors (71.8%) said those laws should be repealed because they violate the First Amendment (Thomason and LaRocque, 1994, pp. 11-12).

Clearly, the correlation between rape victims' fear of being identified and the fact that only 16 percent of rapes are ever reported to police should be a driving force behind the protection of the privacy rights of all sexual assault victims. While legislation mandating such protections has been held unconstitutional by the U.S. Supreme Court, the news media should adopt policies that protect rape victims' right to privacy as a basic ethical premise of journalistic doctrine.

## **Code of Ethics for Victim Advocates in Dealing With the News Media**

In 1988, the National Victim Center published a suggested code of ethics for victim advocates in the media. With adherence to these recommended guidelines (which have been updated in 1995), victim advocates can ease the trauma of the news media's coverage of crime and victims and, at the same time, assist the news media in their attempts to focus public attention on crime in our nation:

### **I shall always:**

1. Honor the victim's wishes relevant to any news media coverage of their tragedy.
2. Protect the privacy of any victims who do not wish to have contact with the news media.
3. Provide victims with guidelines on how to deal with the news media.
4. Upon request, help victims prepare for print or broadcast media interviews.
5. Inform victims that they have the right to refuse an interview with the media.
6. Upon request, accompany crime victims to media interviews and press conferences.
7. Review with reporters, producers and talk show hosts exactly what questions they can and cannot ask your client.
8. Reserve the right to end any interview if the client shows signs of trauma during the course of an interview.
9. Discourage the participation of children in any interviews or talk shows.

## **I shall never:**

1. Force a victim into an interview against his or her wishes.
2. Provide any information about the victim without his or her explicit consent (Seymour and Lowrance, 1988, p. 15).

## **The Role and Responsibilities of the Victim Advocate in Helping Victims Deal With the News Media**

Advocacy for crime victims in the media has become a specialized discipline within the field of victim advocacy. Victim service providers who assume this immense responsibility must:

- Be knowledgeable about how the news media operate (see Worksheet #2).
- Be knowledgeable about victims' rights and issues in general, and about the specifics of the victim and case at hand.
- Develop solid relationships with news media professionals who are known to be sensitive to crime victims and victims' rights issues.
- Consider the needs and desires of the victims they represent -- especially privacy concerns -- as foremost among their responsibilities.
- Be sensitive to the specific needs of the victim and/or the victim's family and friends, as well as to the parameters of the criminal investigation, criminal justice system, and criminal case (when applicable).
- Be available 24-hours-a-day, seven days a week for both the victim and the news media.
- Be aware of and prepared to protect victims' rights in the media.

## **Advance Preparation**

Victim service providers should have a roster of key media in their community, which includes: contact name; address; telephone number; fax number; and e-mail address. A database that allows rapid distribution of information via fax, mail, or the Internet such as victim statements and press releases, is helpful.

It is helpful to also know which media professionals have provided thorough, sensitive coverage of victims' cases, as well as those who have been less sensitive or intrusive. If the victims asks for recommendations on specific media who have contacted them, this type of background information is useful.

## Helpful Tips

- Be well-versed about victims' rights in the media.
- Know all the facts of the case, including detailed, accurate information about the victim.
- Coordinate media outreach with relevant criminal justice officials.
- Always separate fact from opinion.
- Always remember that a defendant is innocent until proven guilty, and is "alleged" to have committed a crime prior to conviction.
- Be aware that anything you or the victim say to the media may be used by the defense.
- Be professional and courteous at all times.

## Victim Advocacy

In some cases, the victim service provider will be directly contacted by the victim or a family member or friend. In other cases, a telephone call to the victim, followed up with a personal note that provides the service provider's/agency's contact information for support and services (including media advocacy), is appropriate.

The role of the victim advocate in helping victims deal with the media may include but is not limited to the following activities:

- Determining "ground rules" for the news media, i.e. does the victim want to deal with the media and, if so, in what manner?
- Providing to the news media the victim's wishes ("ground rules") both verbally and in writing.

- Providing victims with an answering machine if they do not have one that contains a message concerning the victim's wishes for dealing with the media and others.
- Explaining how the media work and, in particular, how the media might cover the victim's case.
- Helping the victim select a spokesperson, when applicable, and being prepared to fulfill this role upon request from the victim.
- Being prepared to develop a written statement, upon request from the victim, for dissemination to the media. A double-spaced statement that includes the spokesperson's contact information, limited to 60 seconds or less, is most appropriate.
- Protecting the privacy of sensitive victims, i.e. sexual assault victims, children and elderly victims, and victims with disabilities, at all costs.
- Providing the media with contact information for the spokesperson selected by the victim.
- Coordinating interview guidelines and other release of information with the media throughout the duration of the case.
- Releasing only information to the media that has been approved by the victim.
- Remember that the media are visually oriented.
- Providing copies of a photograph chosen by surviving family members in cases involving deceased victims, with the original photograph returned promptly to the family.
- Prior to the verdict, helping the victim prepare two statements: One for a "guilty" verdict, and one for a "not guilty" verdict.
- Advising the victim that following a verdict, the news media will have access to persons who had been previously silenced during court proceedings.
- Being prepared to provide follow-on support and advocacy to victims following a verdict, regardless of what that verdict is.
- Maintaining a log of media coverage of the case, including newspaper clippings and audio/video footage of interviews.

## Case Coordination

- Determine key criminal justice officials (such as the police public information officer, prosecuting attorney, or victim/witness coordinator) with whom media outreach should be coordinated.
- Coordinate any release of information with key criminal justice officials.
- For cases involving trials, determine a room in the courthouse where the victim can be guaranteed privacy. Also, determine alternative routes for the victim to enter and exit without being confronted by the media.
- Always keep in mind that pre-trial publicity can result in a change of venue.
- Never speak about the case in any public situations and, in particular, anywhere in or around the courthouse.
- Coordinate victim privacy protection rules in cases involving trials, especially in cases in which cameras are allowed in the courtroom, with the prosecutor and judge.
- Respect any orders issued by the judge relevant to the release of information, especially "gag orders."
- Avoid any adversarial role with anyone involved in the case.
- Coordinate post-trial media activities with the prosecuting attorney and the victim.
- Prepare the victim for potential media inquiries on anniversaries of crimes or court decisions.

## The Media Perspective of Crime and Victimization

Over the past decade, news media professionals have begun to examine their roles in the coverage of crime and victimization. The "double-edged sword" -- involving the victim's right to privacy versus the public's right to know -- has been debated among journalists, with such discussions often involving input and advice from victim service providers. While levels of

sensitivity to victims' rights and needs continue to vary among journalists, news media today more than ever are adhering to basic principles of fairness and sensitivity that ultimately benefit victims of crime whose cases they cover.

## Guiding Principles for the Journalist

There are three guiding principles for journalists that are particularly applicable to their coverage of crime and victimization (Black, Steele, and Barney, 1995).

1. *Seek truth and report it as fully as possible.*
  - Inform yourself continuously so you in turn can inform, engage, and educate the public in a clear and compelling way on significant issues.
  - Be honest, fair and courageous in gathering, reporting, and interpreting accurate information.
  - Give voice to the voiceless.
  - Hold the powerful accountable.
  
2. *Act independently.*
  - Guard vigorously the essential stewardship role a free press plays in an open society.
  - Seek out and disseminate competing perspectives without being unduly influenced by those who would use their power or position counter to the public interest.
  - Remain free of associations and activities that may compromise your integrity or damage your credibility.
  - Recognize that good ethical decisions require individual responsibility enriched by collaborative efforts.
  
3. *Minimize harm.*
  - Be compassionate for those affected by your actions.

- Treat sources, subjects, and colleagues as human beings deserving of respect, not merely as means to your journalistic ends.
- Recognize that gathering and reporting information may cause harm or discomfort, but balance those negatives by choosing alternatives that maximize your goal of truth telling (Black, Steele, and Barney, 1995).

## A Media Code of Ethics

Victim service providers should encourage media professionals, both print and broadcast, to adopt a code of ethics specific to their coverage of crime and victimization. Such a code can serve as a basic ethical foundation from which difficult decisions – frequently made in very short time periods – can be made.

The most comprehensive written policy on ethical considerations affecting journalists, including those affecting crime victims, was developed by the *St. Louis Post-Dispatch* in 1992. In the sensitive introduction to its “Guidelines on Privacy Issues,” the following guiding statement was made:

“As we consider the policies that will best serve the *Post-Dispatch*, we should bear in mind some broad principles:

The perceptions and perspectives of reporters and editors are on the one hand, and readers and other members of the public on the other, are different. The news professionals are motivated chiefly by a desire to get the news and publish it. The others are more likely to react personally, imagining how they would feel as the subject of a story. In weighing matters of privacy, perhaps some effort should be made to bring that personal perspective into the equation.

Major changes should be approached with caution. The wind may seem to be blowing very strongly in one direction today, but could shift direction tomorrow.

No policy will cover every eventuality. The policy here enunciated (in the *Guidelines on Privacy Issues*) includes many exceptions, and must be augmented by the constant application of fairness, common sense, reasoned Judgment, and a degree of compassion by reporters and editors all along the line” (*Guidelines on Privacy Issues*, 1992).

When victim advocates consider proposing a code of ethics to media professionals, the following issues should be seriously considered.



### **The news media should:**

- Present details about a crime in a fair, objective and balanced manner.
- Recognize the importance of publishing or broadcasting information that can contribute to public safety while, at the same time, balancing this need with the victim's need for privacy.
- Respect the privacy of individuals who choose to refrain from dealing with the media, or who choose to address the media through a spokesperson of their choice.
- Provide a balanced perspective relevant to a criminal act that reflects the concerns of the victim and offender.
- Never report rumors or innuendoes about the victim, the offender, or the crime unless such information has been verified by reliable sources.
- In crimes other than homicide, identify the victim by age and area where the crime occurs, omitting street addresses and block numbers.
- Refrain from using information gained from private conversations of victims or their relatives who are in shock or distraught.
- Identify witnesses only when they volunteer to be named, and when there is clearly no danger that can be predicted through their identification by the media.
- Never publish the identity of a sexual assault victim without his or her prior consent, regardless of whether the case is in the criminal or civil courts.
- Never publish the identity of a child victim.
- Never identify alleged or convicted incest offenders when such actions could lead to the identification of the victim.
- In cases of kidnapping where it is determined that the victim has been sexually assaulted, stop identifying the victim by name once a sexual assault has been alleged.
- Never identify the names of victims of scams or other crimes that tend to humiliate or degrade the victim without the victim's prior consent.

- Refrain from photographing or broadcasting images that portray personal grief and/or shock resulting from a criminal act.
- Never publish photographs or broadcast images that could place the subject in danger.
- Refrain from showing photographs or broadcast images of deceased victims, body bags, or seriously wounded victims.
- Never publish photographs or broadcast images of funerals without the surviving family members' prior consent.
- Refer to drunk driving incidents as "crashes" or "crimes," not accidents -- regardless of whether or not the use of alcohol has been determined as a factor.
- Approach the coverage of all stories related to crime and victimization in a manner that is not lurid, sensational, or intrusive to the victim and his or her family.



**The Media Hierarchy**

Victim service providers most often will deal with a reporter from a print or broadcast news medium. However, in the newsroom, the reporter's place is on the lower end of the hierarchy, with many senior officials often responsible for key decisions affecting the coverage of crime and victimization.

The following depicts the hierarchy of the newsrooms of both newspapers and broadcast (radio and television) media (which may vary depending on the personnel and policies of a specific medium).

If victims or advocates are not happy with the media's coverage of a crime or of an issue, they can appeal through the various levels of hierarchy in the media's organization. Ultimately, who has significant influence over each medium -- print and broadcast? Fill in the blank for each.

**Print**

**Broadcast Media**

--	--

Owner  
Executive Editor  
Managing Editor  
Copy Desk Editor  
City or Metro Editor  
Reporter  
Other

Owner  
Station Manager  
Anchors  
News Director  
Reporter  
Other

Other journalists who may affect how stories of crime and victimization are covered, or with whom service providers may have contact, include:

- **Headline writers.**
- **Editorial page editors.**
- **Editorial boards.**

**Who Are the Media?  
(Answers)**

<b>PRINT</b>	<b>BROADCAST</b>	<b>NATIONAL</b>	<b>STATE</b>	<b>LOCAL</b>
DAILY NEWSPAPERS				
WEEKLY NEWSPAPERS				
MAGAZINES				
JOURNALS				
AGENCY NEWSLETTERS				
ALLIED PROFESSIONAL PUBLICATIONS				
NEWS SERVICES				
INTERNET ACCESS TO ALL OF THE ABOVE				
TABLOID NEWSPAPERS				
	NETWORK TELEVISION			
	CABLE TELEVISION			
	INDEPENDENT TELEVISION			
	T.V. NEWS			
	T.V. TALK SHOWS			
	T.V. TABLOID SHOWS			
	T.V. EDUCATIONAL PROGRAMMING			

	T.V. ENTERTAINMENT PROGRAMMING			
	T.V. PSAs			
	RADIO NEWS			
	RADIO TALK SHOWS			
	RADIO PSAS			
	FILMS (FEATURE AND DOCUMENTARY)			
	INTERNET ACCESS TO ALL OF THE ABOVE			

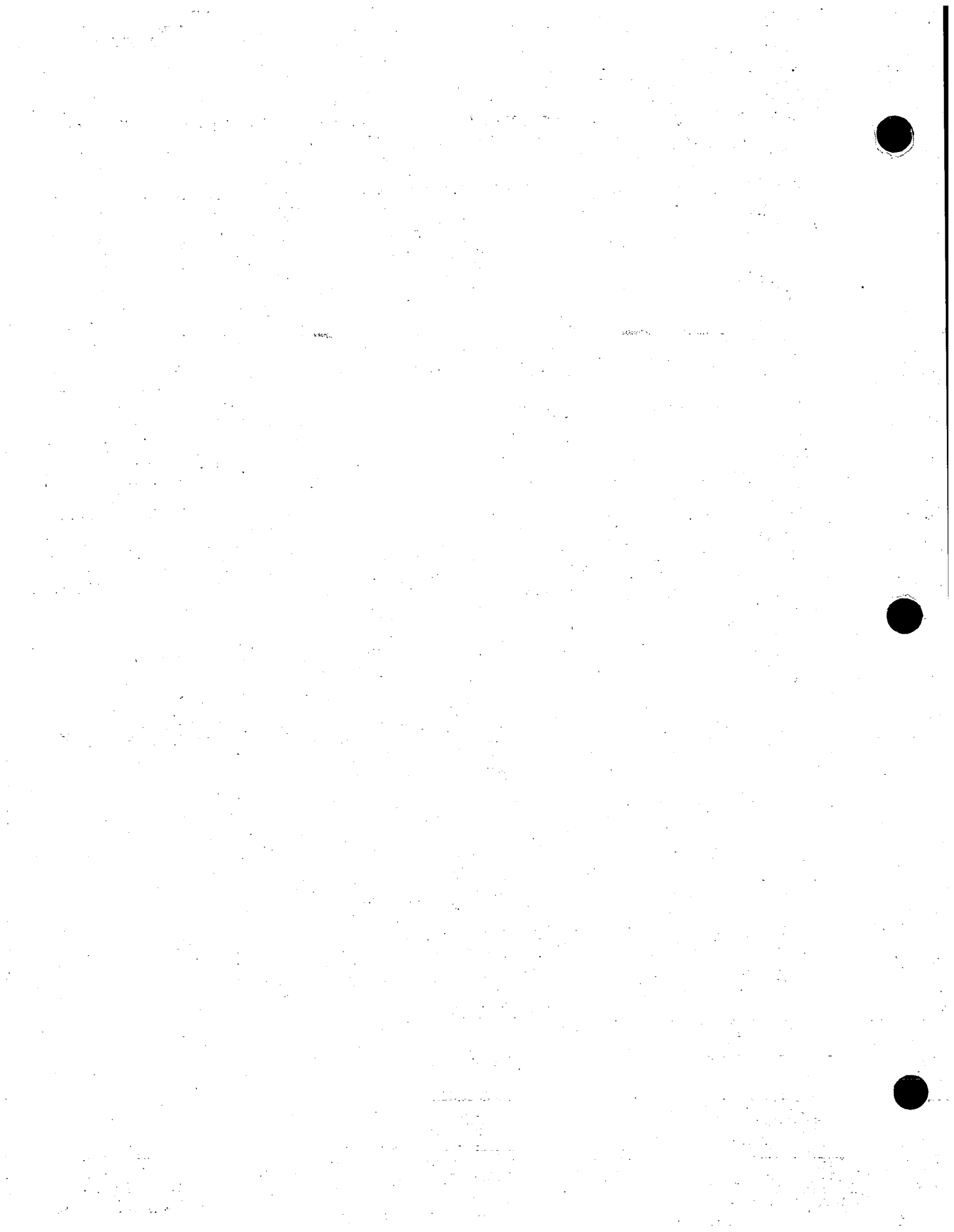
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# Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power



United Nations

Department of Public Information

The Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power emanated from the deliberations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Milan, Italy, from 26 August to 6 September 1985. The General Assembly adopted the Congress's recommended text later that year, on 29 November, when it adopted resolution 40/34, reproduced below.

*The Declaration recommends measures to be taken at the international and regional levels to improve access to justice and fair treatment, restitution of crime, and it outlines the main steps to be taken to prevent victimization linked to abuses of power and to provide remedies for victims of such treatment.*

## Annex

### Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

#### A. Victims of Crime

1. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.

2. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

3. The provisions contained herein shall be applicable to all, without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

#### Access to justice and fair treatment

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.

5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.

6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:

(a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;

(b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;

(c) Providing proper assistance to victims throughout the legal process;

(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.

7. Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims.

#### Restitution

8. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

9. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

10. In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the displacement of a community.

11. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

#### Compensation

12. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:

(a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;

(b) The family, in particular dependants of persons who have died or become physically or mentally incapacitated as a result of such victimization.

13. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

#### Assistance

14. Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.

15. Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.

16. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.

17. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.

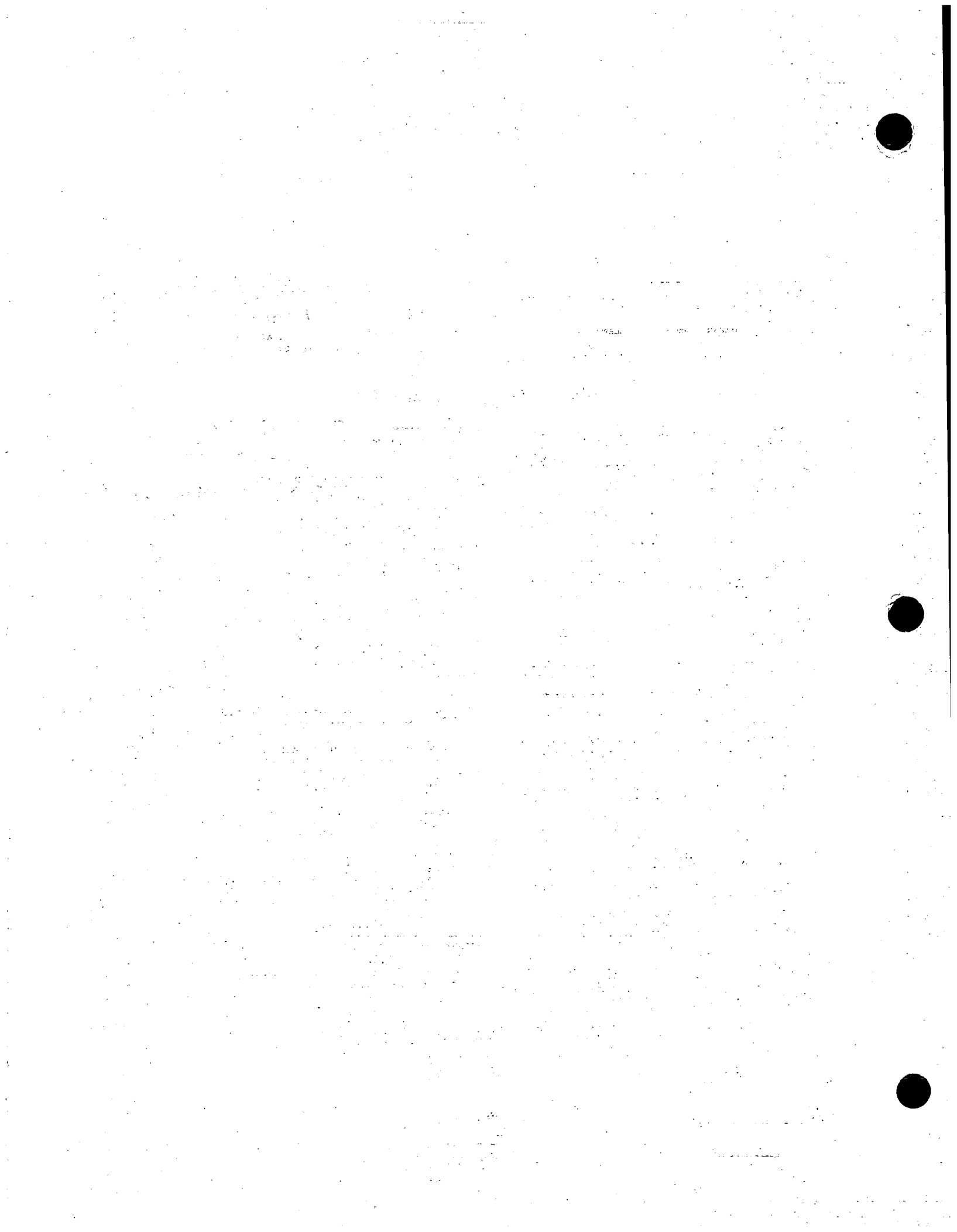
#### B. Victims of Abuse of Power

18. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.

19. States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.

20. States should consider negotiating multilateral international treaties relating to victims, as defined in paragraph 18.

21. States should periodically review existing legislation and practices to ensure their responsiveness to changing circumstances, should enact and enforce, if necessary, legislation proscribing acts that constitute serious abuses of political or economic power, as well as promoting policies and mechanisms for the prevention of such acts, and should develop and make readily available appropriate rights and remedies for victims of such acts.



## IMPACT OF CRIME ON VICTIMS PROGRAM

The California Youth Authority, over the past several decades, has been a recognized national leader in juvenile corrections especially in the area of innovative offender programming. In the early 1980's, a group of visionary Youth Authority professionals lead by Sharon English and Marti Crawford asserted that youth service had "missed the boat"; their premise was that it was not enough to teach an offender to read or to become a welder if he or she returned to the community with no respect for other people's bodies or property. They claimed that a full-service youth program must address what an offender has done just as vigorously as it addresses what they need. In order to address this omission and break the offender's criminal cycle, they strongly recommended more attention be given to the crime victim. Recommendations for an innovative educational strategy stressing the impact of crime on victims were forwarded based on the belief that the justice system has a need and a responsibility to work in equal partnership with victims and victim advocacy programs if the needs of victims and offenders are to be met -- the Impact of Crime on Victims was born! In 1984, the first classes were conducted at the Youth Training School in Chino.

Currently, all institutions and camps offer Impact classes. Thousands of wards have now completed the course. The course includes 35 to 60 hours of experiential curriculum over a period of six to twelve weeks. Speakers are an essential component and are often actual crime victims or victim service providers such as representatives from MADD, Parents of Murdered Children, rape crisis and domestic violence centers, and victim witness programs. The curriculum includes crime specific modules in: property crime, domestic violence, crimes against the elderly, child abuse, sexual assault, assault, robbery, drunk driving, drug dealing, and homicide.

We've come a long way since that first class at YTS. Beginning in 1990, Youth Authority participated on a training and technical assistance project entitled "Crime Victims & Corrections: Implementing the Agenda for the 1990's" presented by the National Victim Center, National Organization for Victim Assistance, American Correctional Association Victims Committee and the Department of Corrections, sponsored by the U.S. Department of Justice Office for Victims of Crime. Youth Authority's Impact of Crime on Victims program was one of three training tracks offered to participants in workshops held in eight states (Utah, Colorado, Pennsylvania, South Dakota, Virginia, Texas, Arizona, and New York); in addition, workshops were conducted for the Federal Bureau of Prisons and the U.S. Department of Defense. Following these sessions, four states (Utah, Colorado, New York, and Pennsylvania) requested additional training for instructors. Intensive week-long training for trainers sessions were developed and delivered by Youth Authority staff in these states; New York (4) and Utah (2) have held several of these intensive trainings over the past few years.

The National Crime Prevention Council in 1992 awarded the Youth Authority a small grant to merge some of their "Teens, Crime, and the Community" material with the Impact of Crime curriculum. These funds allowed the Youth Authority to complete a revision of the curriculum and to place emphasis on an action component in addition to the education component of the curriculum. In 1995, Youth Authority staff in collaboration with the Office for Victims of Crime conducted a week-long training for the four branches of the military

National recognition through the efforts of Youth Authority staff has resulted in numerous requests for training and technical assistance. This prompted Youth Authority to submit a joint proposal with the National Office of Mothers Against Drunk Driving to conduct an Impact of Crime on Victims Training for Instructors for a national audience. The grant, approved by the Office for Victims of Crime, allowed Youth Authority to jointly develop and implement a training for trainers in August 1996 targeted at a nationwide audience of correctional staff, community based organizations, victim/witness staff, and others.

## **IMPACT OF CRIME ON VICTIMS PROGRAM**

- 60 hours of classroom instruction

### **Objectives:**

- Prevent further victimization.
- Create offender awareness of the impact that crime has on:

victims  
family  
community

- Teach offenders how to make positive decisions

### **Covers:**

Property Crime • Domestic Violence  
Elder Abuse • Child Abuse • Sexual  
Assault • Drug Dealing • Drunk Driving  
• Robbery • Assault • Homicide

### **Delivery Methods:**

Small group discussion • Lecture  
Victim & Victim Advocate Speakers  
Video Presentations • Case Studies  
Role Play • Reading • Written  
Exercises • Homework

### **For information, contact:**

Kip Lowe, Ph.D.  
California Youth Authority  
Office of Prevention & Victims Services  
4241 Williamsborough Drive, Suite 214  
Sacramento, CA 95823  
(916) 262-1392.

## ICV Classes: From A Victim's Perspective

Written by Jean O'Hara  
Homicide Survivor

"Here is what I hope to accomplish by making presentations to wards of the California Youth Authority at their Victim Impact Classes.

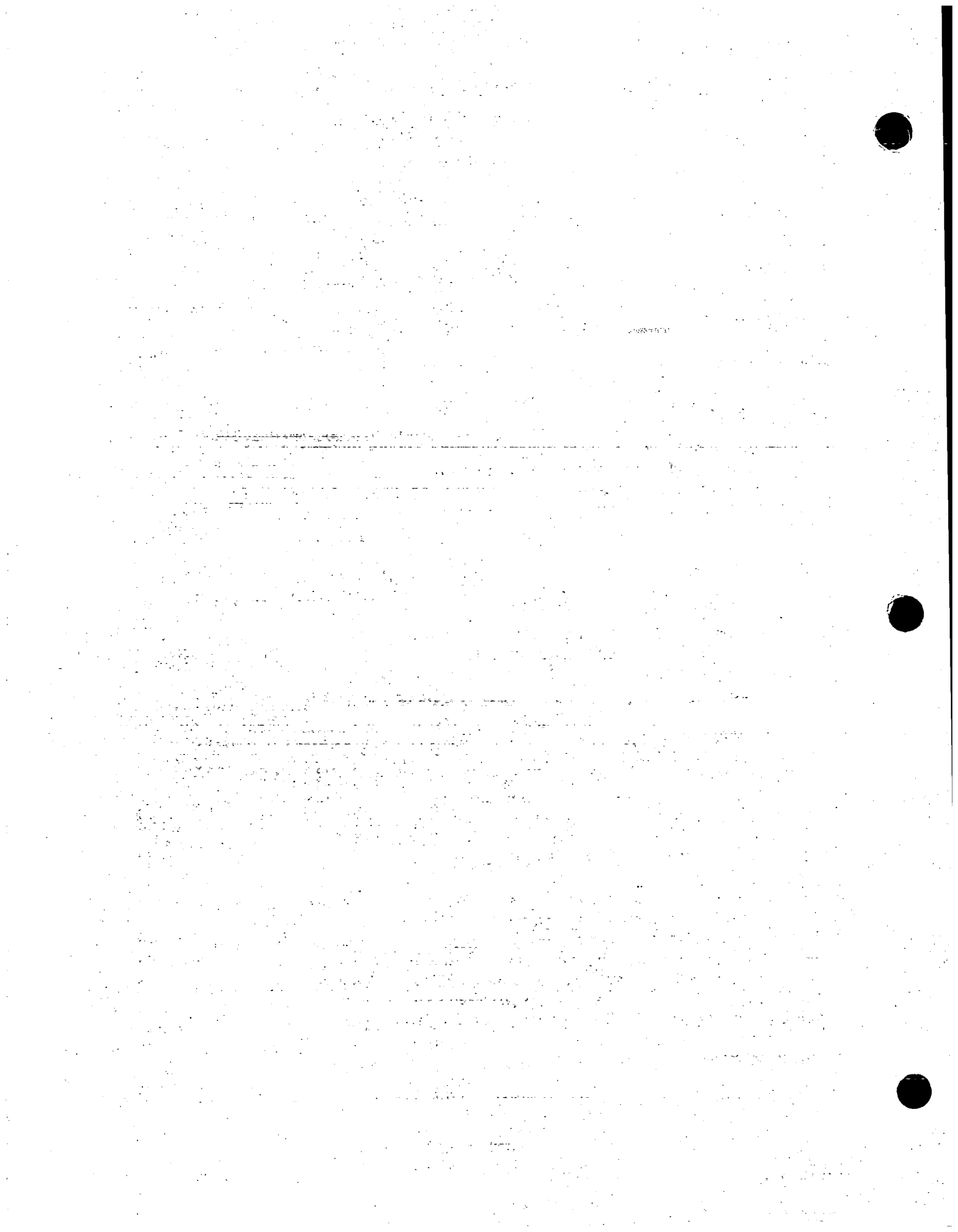
When I was first asked to make a presentation to the teachers who work with these wards, in September of 1992, at the Westminster Retreat in Alamo I wondered what difference my story could make, why would these people want to hear it. At that time I was a little hesitant about telling my story as I could not see how these teachers could use my experience to make a difference in the people they were involved with educating.

After that presentation I learned about the victim impact classes, talked to some of the teachers and came to the realization that youthful offenders were all going to be released into society at some time in the future. This convinced me that youthful offenders had to be told what the crime of murder did to family members, people who had to continue living after their loved ones were violently taken from them, the survivors of murder victims.

The victim cannot be brought back. But, if the attitude of even one perpetrator can be altered, if they can be made to know and understand, yes, feel the sorrow, the pain, the longing for the victim that results from this act, perhaps the life of a potential "victim" can be saved. If saving the life of one person is possible, it must be done, and I continually encourage other survivors of murder victims to participate in the Victim Impact Program.

I know that it is probably not possible - ever to know - if a life or lives have been saved but when I speak to these wards I have the feeling that, in every class, there is at least one person who hears my plea and is challenged to think about the choices they have made and will be making once they are returned to society. Then, instead of choosing to victimize another person they will make the choice to hold out a hand to be helpful to someone, to do something worthwhile with their lives.

I have the feeling that those who have heard my message will remember it. I have been surprised to have young men, who have heard my talk at one of the schools and are present when I give the talk at another, come up and tell me they remember me, they remember my story and they sympathize with me and tell me 'how brave' they think I am to be able to relate this tragic event over and over again. The best part is that they have expressed feelings of remorse for the person or persons they have victimized, and have indicated their desire to turn their lives around so they will not cause another victim, especially a survivor of a murder victim."



## Danielle and Michael Scenario

Name \_\_\_\_\_

Date \_\_\_\_\_



**Read the following scenario. Use your "Three Types of Abuse" and "Four Major Impact Areas" handouts to help you with the questions.**

Danielle and Michael have been living together for two years. They have two young children ages 3 and 5 years old. Tonight, Michael came home and was angry because dinner was not ready. Danielle and Michael argued and Michael lost control and began hitting and kicking Danielle in front of the children. He then left the house and drove away in their car.

Danielle had several injuries including a large cut above her right eye that was bleeding. She also thought that her ribs were cracked.

**Check the feelings that you think Danielle might be feeling:**

fear	sad	responsible
anger	love for abuser	confused
hopelessness	responsible for abuser	upset
helplessness	guilty	depressed
feeling isolated	ashamed	suicidal
insecure	embarrassed	other

1. Choose one of the feelings you checked above and explain your choice.
2. What possible impact could the battering have on Danielle? Remember to think about the "Four Areas of Impact"?
3. What possible impact could the battering have on the children? Remember to think about the "Four Areas of Impact"?



4. If Danielle was your sister, what would you want her to do? List several actions you would like your sister to take and put them in order as to what you would want her to do first, second, third, etc.)
  
5. Why did you choose the decisions you did?
  
6. Danielle decided to stay in the home. Using the information from the cycle of battering, what do you think might happen in the future?

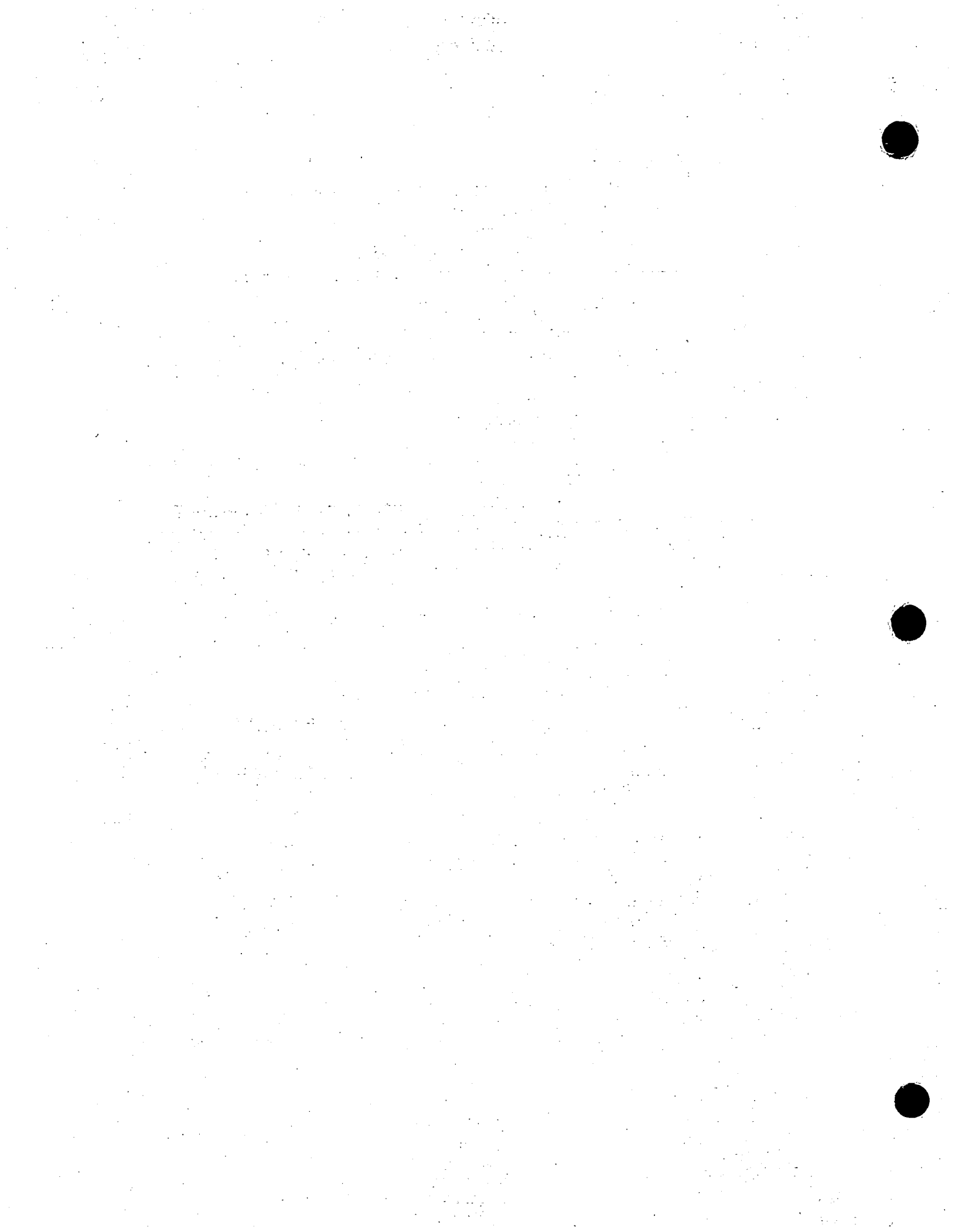
# WHO'S ON FIRST: DETERMINING JURISDICTION

Colonel Mike Ford, Staff Judge Advocate  
37th Training Wing  
Lackland AFB, Texas

1. Jurisdiction, generally
  - 1.1. Most installations result from states cession of land
  - 1.2. Three types of jurisdiction
    - 1.2.1. Proprietary
      - 1.2.1.1. Military has same status as land owner
      - 1.2.1.2. No federal jurisdiction
      - 1.2.1.3. Federal government retains supremacy and immunity for federal functions
    - 1.2.2. Partial
      - 1.2.2.1. Both state and federal have some legislative powers
      - 1.2.2.2. Neither has total
    - 1.2.3. Concurrent – both state and federal governments have total legislative authority
    - 1.2.4. Exclusive
      - 1.2.4.1. Federal government has total legislative jurisdiction
      - 1.2.4.2. State has none—usually retains authority to serve civil/criminal process
  - 1.3. Federal government may cede land, jurisdiction back to states
2. Criminal law
  - 2.1. Armed forces have criminal jurisdiction over service members anywhere in the world for violations of UCMJ
    - 2.1.1. Services policy normally to maximize jurisdiction
    - 2.1.2. Negotiation with local district attorneys
  - 2.2. Title 18, USC prescribes crimes against the US
    - 2.2.1. Some are crimes no matter where committed
      - 2.2.1.1. Counterfeiting
      - 2.2.1.2. Espionage
      - 2.2.1.3. Sabotage
      - 2.2.1.4. Bribery of federal officials
    - 2.2.2. Some are crimes against any sovereign in whose jurisdiction they are committed
      - 2.2.2.1. Murder
      - 2.2.2.2. Robbery
      - 2.2.2.3. Arson
      - 2.2.2.4. Rape
      - 2.2.2.5. Etc.

- 2.3. **Exclusive federal jurisdiction installations**
  - 2.3.1. **No state authority**
  - 2.3.2. **US Attorney prosecutes civilians**
  - 2.3.3. **Military police "detain" civilians**
  - 2.3.4. **Military may request assistance from state victim assistance agencies**
- 2.4. **Concurrent jurisdiction**
  - 2.4.1. **Military offenders**
    - 2.4.1.1. **Military wants jurisdiction**
    - 2.4.1.2. **Strong service interest**
  - 2.4.2. **Civilian offenders**
    - 2.4.2.1. **No military jurisdiction**
    - 2.4.2.2. **Depending on offense, District Attorney and US Attorney negotiate**
- 2.5. **Proprietary jurisdiction**
  - 2.5.1. **Military offenders**
    - 2.5.1.1. **Military wants jurisdiction**
    - 2.5.1.2. **Strong service interest**
  - 2.5.2. **Civilian offenders**
    - 2.5.2.1. **No military jurisdiction**
    - 2.5.2.2. **Depending on offense, District Attorney and US Attorney negotiate**
  - 2.5.3. **Mostly in military family housing areas**
  - 2.5.4. **Military may request assistance from state victim assistance agencies**
- 3. **Civil Law**
  - 3.1. **Normally state law applies**
- 4. **Military Policy on Victim Assistance**
  - 4.1. **All victims and witnesses of crime who suffer physical, financial, or emotional trauma should receive the assistance and protection to which they are entitled**

5. **Crime Victim Rights**
  - 5.1. To be treated with fairness and respect for their dignity and privacy
  - 5.2. Reasonable protection from a suspect or accused
  - 5.3. Notification of all court-martial proceedings
  - 5.4. To be present at all public court-martial proceedings, unless military judge determines testimony would be materially affected by hearing other testimony
  - 5.5. To confer with trial counsel in the case
  - 5.6. To appropriate restitution, when available
  - 5.7. Information about an accused's conviction, sentencing, confinement, and release
  - 5.8. Legal assistance, if entitled
  - 5.9. Information upon request regarding
    - 5.9.1. Status of the investigation
    - 5.9.2. Accused's pretrial status
    - 5.9.3. Preferral of charges
    - 5.9.4. Acceptance of a guilty plea or discharge in lieu of court-martial
  - 5.10. Explanation to employer of reason for absence from work
  - 5.11. Explanation to creditors of financial strain due to victim status
  - 5.12. Consultation with trial counsel regarding major trial decisions affecting victim
  - 5.13. Assistance in obtaining emergency medical and social care
6. **Military Service Agencies Available to Assist Victims**
  - 6.1. Base Legal Office
  - 6.2. Air Force Office of Special Investigations (AFOSI)
  - 6.3. Security Police
  - 6.4. Family Support Center
  - 6.5. Medical and dental facilities, if entitled to care
  - 6.6. Chaplains
  - 6.7. Military aid and relief societies
7. **Victim and Witness Assistance Training Provided**
  - 7.1. Legal office personnel
  - 7.2. Security Police
  - 7.3. AFOSI personnel
  - 7.4. Medical personnel
  - 7.5. Family Support personnel



## OVERVIEW OF THE UCMJ

### INVESTIGATING AND TRYING THE MILITARY-RELATED CASE

Presented by

Lieutenant Colonel Thomas W. McShane  
Office of The Judge Advocate General  
Department of The Army, Washington D.C.

#### Outline of Presentation

#### I. INTRODUCTION AND OVERVIEW.

##### A. Background.

1. Time magazine article, May 23, 1994, page 48 entitled "The Living Room War." A copy of this article follows the outline.
2. Other articles appeared in various publications at about the same time. Stories on network news shows and even on talk shows exposed the issue to the general public.
3. The military, reflecting societal norms, have been wrestling with more and more incidents of child abuse, neglect, wife-battering, and other offenses collectively referred to as domestic violence.
4. The facts are, reported incidents and criminal prosecutions involving domestic violence are up. Whether the incident of such crimes in the military differs from general society is subject to debate.

##### B. Points for Discussion.

1. Factors contributing to domestic violence.
2. Military jurisdiction and response to domestic violence.
3. Prosecution of domestic violence.
4. The court-martial process.
5. Problem issues in domestic violence cases.

## II. FACTORS CONTRIBUTING TO DOMESTIC VIOLENCE

### A. Military Demographics.

1. A youthful organization.
2. Majority of all soldiers, airmen, sailors and marines are married.
3. Military families are scattered throughout the world and far removed from family and other familiar support systems.

### B. Military Assignments.

1. Require frequent separation of various durations.
2. Some separations involve deployments of indeterminate length, such as Desert Storm, Somalia, and Haiti.
3. Separation increases normal stress factors associated with domestic violence.

### C. Contributing Developments.

1. Reduction in the size of the military has been dramatic and swift.
2. Tens of thousands of military servicemembers have been "laid-off" - involuntarily separated.
3. Tens of thousands more still on active duty and their families have experienced considerable anxiety over the drawdown, future career opportunities, military pay, etc.
4. Military pay is low and has lagged behind inflationary rates for several years.
5. Military housing is generally adequate at best. Off-base housing available to many lower-ranking servicemembers and their families is often substandard.
6. Force reductions and increased frequency of deployments has increased the problems caused by separation.

### III. MILITARY JURISDICTION AND RESPONSE TO DOMESTIC VIOLENCE.

#### A. Nature of the Military Installation.

1. Military installations (forts, bases, etc.) are federal enclaves, but jurisdiction over criminal offenses may vary from post-to-post.
2. Three types of jurisdiction.
  - a. Exclusive federal jurisdiction.
  - b. Concurrent jurisdiction.
  - c. Partial Jurisdiction.
3. Installation/base commanders have extensive powers to manage their installations. Powers include:
  - a. Law Enforcement.
  - b. Health and Safety.
  - c. Personnel Management.
  - d. Housing.
  - e. Schools.
  - f. Municipal Services.

#### B. Resources Available to Address Domestic Violence.

1. Military installations of any size offer a comprehensive range of community and social services, to include:
  - a. Medical.
  - b. Legal.
  - c. Social Work/Counseling.
  - d. Chaplains.
  - e. Financial Planning.
  - f. Red Cross and Army Emergency Relief.



2. Organization may vary, but each service also maintains a Family Advocacy Program (FAP) to consider quality of life issues.
3. Part of the Army's program at each installation is the Family Advocacy Case Management Team (FACMT).
  - a. FACMT is an interdisciplinary approach to reporting and treating family advocacy issues.
  - b. FACMT explores all cases of abuse and neglect.
  - c. Reports of abuse/neglect must be submitted by health care providers, schoolteachers and others.
4. FACMT meets regularly and utilizes team approach.
5. FACMT also has ties with local and state agencies.

C. Investigation of Domestic Violence Cases.

1. Initial observation/intake/reporting of incident:
  - a. Social work/health care services.
  - b. Military Police.
  - c. Criminal Investigation Division (CID).
  - d. Chaplains.
  - e. Legal Assistance.
  - f. Commanders.
2. Cases may be handled in multiple channels at the same time, i.e., treatment does not suspend investigation or prosecution.
3. Domestic violence is a crime; prosecution is always an option.

D. Administrative Options in Domestic Violence Cases.

1. Restriction - Commanders can order soldiers to move out of their family quarters and into barracks. Has effect of restraining order.

2. Support of dependents - Commanders can order soldiers to provide certain minimum amounts to family members.
3. Counseling and written reprimands may be appropriate in some instances to warn soldiers that violent or abusive behavior will not be tolerated.
4. Drug and alcohol treatment programs are helpful where violence is related to drug or alcohol abuse.
5. Nonjudicial punishment - Under Article 15 of The Uniform Code of Military Justice (UCMJ), commanders may impose minor punishments including restriction, reduction in rank and forfeitures for misdemeanor offenses.
6. Administrative elimination - soldiers considered unfit for further service because of misconduct, failure to satisfactorily complete rehabilitation, or for certain other enumerated criteria, may be separated administratively.
  - a. Discharge may range from honorable to other than honorable.
  - b. Depending upon the grounds for discharge and length of service, the soldier may be entitled to an administrative hearing before a board.
  - c. Discharge may have effect of punishing family member victims of domestic violence.

#### IV. MILITARY PROSECUTION OF DOMESTIC VIOLENCE CASES.

##### A. Factors Favoring Prosecution.

1. Perception and reality of increasing violence.
2. Deterrent effect.
3. Punishment and protection of society.
4. Attempt to break cycle of violence.
5. Media and Congressional interest.

##### B. Factors Counseling Hesitation.

1. Prosecution negates treatment.

2. Contributes to break-up of families.
3. The victims suffer twice.
4. Military may have more comprehensive support and treatment programs than local communities.
5. Domestic violence cases are difficult to prosecute.

C. Investigation.

1. By CID, military police, or commanders. See Rule for Court-Martial (R.C.M.) 303, Manual for Courts-Martial, United States, 1984 (1994 Edition) (MCM).
2. Investigation should obtain statements made to physicians or others for medical treatment. No doctor-patient privilege under Military Rules of Evidence (M.R.E.).
3. Forensic and all other means to obtain physical evidence should be employed; reliance upon witness statements alone is always risky in domestic violence cases.
4. Pretrial restraint may be imposed; includes pretrial confinement option.
5. Other measures may be utilized to keep suspected offender away from family, e.g., order in nature of restraining order, restriction to post, etc.
6. Mandatory apprehension in domestic violence cases not required under the UCMJ. Reporting is.
7. Right against self-incrimination.
  - a. Article 31b, UCMJ.
  - b. Broader than Miranda, it requires that any suspect be advised of rights prior to official questioning.
8. Other investigative measures.
  - a. DNA evidence is generally admissible.
  - b. Polygraph (not admissible in court-martial).
  - c. Videotape of interviews.

d. Records - medical, law enforcement, legal.

D. Initiation of Charges.

1. Commanders usually initiate, or prefer, court-martial charges.
2. Charges preferred under oath after investigation and consultation with trial counsel (prosecutor).
3. Forwarded up the chain of command for the appropriate level of disposition.
4. Before charges can be sent to a General Court-Martial, formal investigation under Article 32 must be held to determine sufficiency of evidence.
  - a. Article 32 hearing similar to preliminary hearing in civil courts.
  - b. Accused present with counsel, who may cross-examine witnesses under oath.
  - c. Article 32 investigating officer recommends appropriate level of court or disposition to the convening authority directing investigation.
  - d. Referral to trial is the official action convening the court-martial.

E. Levels of Court-Martial (lowest to highest).

1. Summary court-martial.
2. Special court-martial.
3. Special BCD court-martial.
4. General court-martial.

F. Court-Martial Personnel.

1. Military Judge.
2. Trial Counsel (Prosecutor).

3. Defense Counsel.
  - a. Detailed.
  - b. Requested.
  - c. Civilian.
4. Court Reporter.
5. Panel (Jury).
  - a. Panel of officers or, at accused's option, mixed panel of officers and enlisted soldiers.
  - b. Selected by the convening authority according to criteria of Article 24, UCMJ: best suited by age, education, experience, training, length of service and judicial temperament.
  - c. Minimum number: 3 for Special courts, 5 for General courts-martial. No maximum.
  - d. Accused can waive trial before a panel and elect to be tried by the military judge alone.

## V. TRIAL BY COURT-MARTIAL.

### A. Trial Procedure in General.

1. Rules for Courts-Martial (RCM) patterned after the Federal Rules of Criminal Procedure.
2. Military Rules of Evidence (MRE) patterned after Federal Rules of Evidence.
3. Sixth Amendment trial by jury not applicable to trial by court-martial.
  - a. Challenges for cause unlimited; peremptory challenges generally limited to one per side.
  - b. Attorneys may conduct voir dire of panel.
  - c. If less than a quorum remains after challenges, trial cannot proceed until additional members are appointed or detailed.
  - d. Panel can ask questions, subject to judicial approval, of witnesses, and may take notes.

- e. Panels generally not sequestered.
  - f. Unanimous verdicts required in capital cases only. Other cases require vote of 2/3 of members.
  - g. If vote on findings produces less than the number of votes required to convict, the accused is acquitted; no hung juries.
  - h. Strict rules against discussing vote or deliberative process of panel members.
4. Parties make opening statements, present evidence and make closing arguments as in other courts.

B. Sentencing.

1. If panel convicts, panel imposes sentence.
2. If military judge convicts, military judge imposes punishment; but accused may plead guilty and request a panel for sentencing only.
3. No minimum sentences.
4. Maximum punishments prescribed by President in MCM.
5. Sentencing hearing usually conducted immediately after findings of guilty announced; no presentencing report.
6. At sentencing hearing accused and government may call witnesses, present documents, records or other relevant evidence.
7. Victim impact statements admissible.

C. Post-Trial.

1. Convening authority must approve findings and sentence. May disapprove any finding of guilty, any sentence adjudged, or may reduce or suspend any part of sentence.
2. Accused may submit additional matters for consideration and request clemency.
3. Appeals.

- a. Automatic if approved sentence includes bad conduct or dishonorable discharge or confinement for one year or more.
- b. Appellate counsel appointed.
- c. First appeal to Courts of Military Review.
- d. Second appeal may be made to United States Court of Military Appeals.
- e. Final appeal may be made to United States Supreme Court.

## VI. PARTICULAR ISSUES IN DOMESTIC VIOLENCE CASES.

### A. The Recanting Victim/Witness.

- 1. Victims and witnesses almost always willing to make statements immediately after incident.
- 2. Pressures later mount to modify or recant.
  - a. To preserve marriage.
  - b. To "protect" children.
  - c. To keep perpetrator, often the breadwinner, out of jail.
- 3. This leads to problems for government in successfully prosecuting these cases.

### B. Evidentiary Issues.

- 1. Unavailable witnesses.
- 2. Witnesses who refuse to testify.
  - a. Subpoenas might not work.
  - b. Should government impeach its own witness?
- 3. Previous testimony.
  - a. Sworn statements.
  - b. Testimony at Article 32 hearing.
  - c. Hearsay and confrontation issues.

4. Battered-woman and rape-trauma syndromes.

C. Victim/Witness Assistance.

1. Absolutely critical in domestic violence cases.
2. Army program follows Department of Justice and Department of Defense Models.
3. Provides victim/witness assistance from incident through all phases of trial and, if victim/witness elects, through confinement and parole.
4. Multidisciplinary approach utilizes all military community resources, including medical, social services, chaplains and legal assistance.
5. Victims and witnesses consulted concerning case disposition, including pretrial confinement, charging determinations, and pretrial agreements. No veto power.
6. Notified of available resources and how the court-martial and confinement systems work.
7. Includes witness fees and other support to enable victims and witnesses to testify at trial.
8. Each installation has a victim/witness liaison (VWL) responsible for ensuring services are provided.
9. Services include: coordination with local agencies; and application for state crime victim compensation programs (funded by DOJ and available to military family members).

D. Congressional and Other Developments.

1. New reporting requirements affecting victim and witness assistance reflect public concern.
2. Closer scrutiny of victim/witness services.
3. Legislation in this area included in 1993, 1994 and 1995 DoD Authorization Acts.
  - a. Benefits for family members of retirement-eligible soldiers convicted of domestic abuse.
  - b. Transitional compensation, including medical and PX benefits, for family member victims.



- c. Creation of formal victims advocate programs.
- d. All this is designed to encourage victims of domestic violence to come forward and testify.

**VI. CLOSING REMARKS.**

# Cognitive Interviewing and the Victim/Witness in Crisis

By Laura Olsen, Lead Instructor, and Robert Wells, Victim/Witness Coordinator, Behavioral Science Division, Federal Law Enforcement Training Center, Glynco, Georgia

Most law enforcement training academies teach officers and investigators to rely on the traditional "who, what, where, when, why and how" questions in interviewing. While such training may equip police investigators as report takers, it does not give them the foundation they need to be effective information gatherers.

Many criminal events traumatize the victim or terrify the witness so much that critical information is lost in the overwhelming emotional reaction that accompanies the crime. In these types of cases, the question-and-answer approach employed as part of the "standard" method of interviewing may inadvertently suppress important details and critical leads.

Obviously, then, we need to move away from the principles advocated by the "just the facts, Ma'am" school of interviewing. It is vital that law enforcement trainers begin to neutralize this type of approach by presenting dispatchers, first responders and investigators with a more structured approach, one that assists both the victim/witness and the law enforcement interviewer.

At the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia, just such an approach is being taken, building on the foundation established by the cognitive interview technique, as developed and revised by Geiselman and Fisher. What FLETC has added to that foundation is: (1) a better understanding of what the victim or witness is experiencing; (2) techniques for identifying and removing emotional barriers—created by the experience—that can stand between the investigator and critical information; (3) additional suggestions for obtaining further information after the first "formal" interview; and (4) ways to maintain the behavioral integrity of the information obtained from the victim or witness.

With this revised approach emerges a two-pronged interview technique that not only significantly increases the amount of accurate information obtained by the investigator, but helps victims and witnesses to effectively "work through" their experience toward positive recovery.

## The Foundation

The foundation for an effective approach to the victim/witness interview lies with the "witness memory retrieval technique," originally developed by R. Edward Geiselman of the University of California at Los Angeles and Ronald P. Fisher at the Florida International University. Their process represents a collection of memory-jogging techniques designed to provide investigators with an organized series of step-by-step procedures that help victims and witnesses retrieve and elaborate on information stored in the memory. Their cognitive technique, as originally developed and subsequently revised, is specifically designed for use with cooperative victims and witnesses. It is designed to enhance recall, not detect deception. It is easy to learn and can be incorporated with limited training. It seeks to maximize the quantity and quality of information while minimizing the effects of misleading or inaccurate information.

The cognitive interview technique as initially developed in the early 1980s (and since revised) has been shown to produce as much as 45 percent more accurate information. Over the past decade, Geiselman and Fisher conducted five experiments with the new technique, finding an increase in the amount of correct information, but no increase in the proportion of incorrect data.

Cognitive interviewing techniques are based on the principles of "mnemonics," a technique for improving the memory. This approach guides the person back to the original memory record by use of an

established formula. Since we think in pictures, mnemonics experts suggest that, as investigators, we should facilitate the witnesses' focus until the picture of the criminal event becomes clear. The techniques used in cognitive interviewing increase the links between stored memory and provide cues that help witnesses recall what they saw or heard.

One of the main goals of the cognitive interview is to mentally reconstruct the physical and psychological environment of the original event—keyed this time to the feelings of the victim-witness.

Cognitive interviewing is certainly not more difficult to conduct than the more traditional law enforcement interview with its rapid-fire, short-answer questions; it is simply different. We need to recognize that we are often so accustomed to asking the "6 Ws" (who, what, when, where, why and how) that we may be too preoccupied with our next question to really listen. Remember, this approach breaks the focus of our interview, with the result that recall suffers and valuable information is often lost.

Perhaps the real value of cognitive techniques lies in their ability to create a structured approach to interviewing that helps replace the tendency to ask numerous short-answer questions with a more open-ended, "tell me" approach. When this approach is used, the "6 Ws" will often be answered in the victim's narrative response. Training for interviewers must also emphasize the importance of patiently waiting through pauses and avoiding interruptions.

The process of reconstructing the event may trigger some very intense emotions for some victims and witnesses. It is important that law enforcement understand (1) what these emotions are, (2) where they come from and (3) how to effectively deal with them so that they don't serve as barriers between the investigator and

the information needed from the victim or witness.

### The Crisis

Both basic and advanced training at FLETC emphasizes a simple and often-overlooked concept: Many victims and witnesses will experience the event—the crime—as a crisis. Most of these same victims and witnesses will successfully recover from the experience by passing through three stages of crisis reaction to final “reorganization.” In the process they must develop an understanding of the event, reestablish a sense of trust and reestablish equilibrium and a sense of control.

According to Dr. Morton Bard, who researched crime victims’ reactions to their victimization, the pattern of behavior that people follow in crisis situations is remarkably similar. The crisis reaction develops in three stages, from an initial disorganization of the self (impact), through a period of struggle (recoil), to the eventual readjustment of the self (reorganization).

Dispatchers, uniformed officers and investigators dealing with victims or witnesses during the first few minutes, hours or even days after the crime has occurred will frequently observe and need to effectively deal with crisis reactions such as disorganization and confusion,

numbness or shock, disorientation, aimless movement or immobilization, and disbelief. They can expect to encounter crime victims who are angry, afraid or ashamed. They are dealing with persons who may be unusually susceptible to the influence of others.

Those dealing with the victim or witness in the follow-up stages of the investigation may be confronted with two conflicting behaviors:

- The victim may vividly relive the emotional experience (facing his emotions), or

- The victim may attempt to deny the feelings by refusing to talk about or deal with the incident.

In the course of a lengthy investigation, the victim may go back and forth between these behaviors, reexperiencing the emotions faced during the “impact” stage at one minute, while trying to mentally deny the crime even occurred the next.

During this stage, the victim may also be experiencing extreme fear, shame or guilt, intense anger or resentment, phobic reactions to details of the crime (such as particular places, times of day or kinds of people), difficulty in recalling details, difficulty in making simple decisions and vast mood swings (the “emotional roller coaster”). During this period, to behaviorally resolve their crisis, victims will repeatedly think and talk about the crime.

The duration of the recoil stage varies widely depending on the severity of the crime and the level of violation of self. It is generally accepted that, for victims of rape or survivors of homicide, the recoil stage lasts a *minimum* of one year.

By using “psychological first aid,” assist by identifying and removing the emotional barriers—such as anger or fear—that can stand between you and the information you need to elicit from your victim or witness.

### The Initial Response: Psychological First Aid

According to Dr. Martin Symonds, New York City Police Department psychiatrist, and Dr. Calvin Fredericks, medical psychology professor at UCLA, the first moments of police contact with a victim or witness are usually the most crucial in terms of emotional responses and accurate memory. An effective initial experience with law enforcement (whether with dispatchers or uniformed officers) is necessary to provide the proper emotional environment for successfully applying cognitive interviewing techniques.

Organizations including the IACP and the National Sheriff’s Association have long recommended that law enforcement personnel be trained in a victim/witness communication process called “psycho-

logical first aid.” The importance of this process was also voiced as part of the recommendations for law enforcement made by the *Final Report of the President’s Task Force on Victims of Crime*. While originally designed as a communication technique for use by first responders, psychological first aid has proven to be equally valuable to criminal investigators and prosecutors. We have learned from the work of Bard and Symonds that taking a few minutes to focus on the victim or witness can really benefit the investigator in terms of improved cooperation and more accurate and complete information.

Properly applied, psychological first-aid techniques help ensure that the initial law enforcement response focuses first on meeting the immediate needs or concerns of the victim or witness. Most models for such an approach suggest that we begin by asking a simple question—“Are you OK?”—and then really listening to the victim/witness response. When victims then express anger or fear, the challenge is to let them get these feelings out in the open (*vent*) and let them know that these types of feelings are normal and appropriate (*validate*).

When these techniques are not applied, the victim or witness may stay mentally focused on his emotions rather than the investigation. It also helps to spend a little time helping the victim prepare for what

is coming next in terms of the interview and the investigation.

Armed with an improved understanding of the victim’s crisis and techniques for identifying and effectively dealing with emotions that can surface as a result of that crisis, we are now prepared to conduct an effective interview.

### The Interview

The four-step process of the cognitive interviewing technique suggests that the criminal investigator guide victims and witnesses to do the following:

1. *Reconstruct the circumstances.* Ask them to think about how they were feeling. Have them focus on the event in their minds’ eye. Ask them to describe weather, surroundings, objects, people and smells.

2. *Report everything.* Ask them to focus on the event and tell everything; i.e., “Don’t edit anything, even if you feel that it is unimportant.” Make this an *uninterrupted* narrative.

3. *Recall the events in a different order.* Ask them to tell the story in reverse, beginning with the last thing that occurred and continuing to the first thing that happened.

4. *Change perspectives.* Ask them to assume the role of another person present or nearby. What would he have been able to see?

Follow the interview with specific questions, asked slowly, when appropriate:

1. *Appearance:* Did the person remind you of anyone? Who? Why?

2. *Names:* Go through the alphabet. What was the first letter of the name you heard?

3. *Numbers:* How many numbers did you see? Were they high? Low? Mixed with letters?

4. *Speech:* Who did the voice(s) remind you of? Why?

5. *Conversations:* What was your reaction to what was said?

Investigators should complete their interview by summarizing what was related in the interview. Keep in mind that, when utilizing these techniques, investigators should limit or—preferably—eliminate interruptions; limit short-answer questions; properly sequence questions, focusing on one area until the mental picture becomes clear and retrieved information complete; and slow down the interview process to match the *victim’s* pace.

### Post-Interview Considerations

The cognitive interview does not end with the formal interview in the office or the field. Recognize that, in working through their crisis, victims and witnesses will think a lot about the crime. Many

will repeatedly wake up early, mentally replaying the incident. The interview techniques advocated may enable many victims and witnesses to restructure their early morning cognitive replay of these events. By understanding and formally acknowledging these routine patterns of crisis reaction, investigators will help not only the victim/witness but their own investigations.

Finally, it is important that victims be referred to victim assistance programs. For example, if the victim was injured, he may be mentally focused on the issue of how to pay the medical bills. By discussing crimes compensation, investigators help to ease that concern, allowing him to better concentrate on the investigation.

Also, such referral will help to maintain the behavioral integrity of the information received from the victim or witness. If the victim is called upon to testify, he testifies stronger with more accurate recall when relating the events of the crime. Strong testimony means an improved chance for conviction.

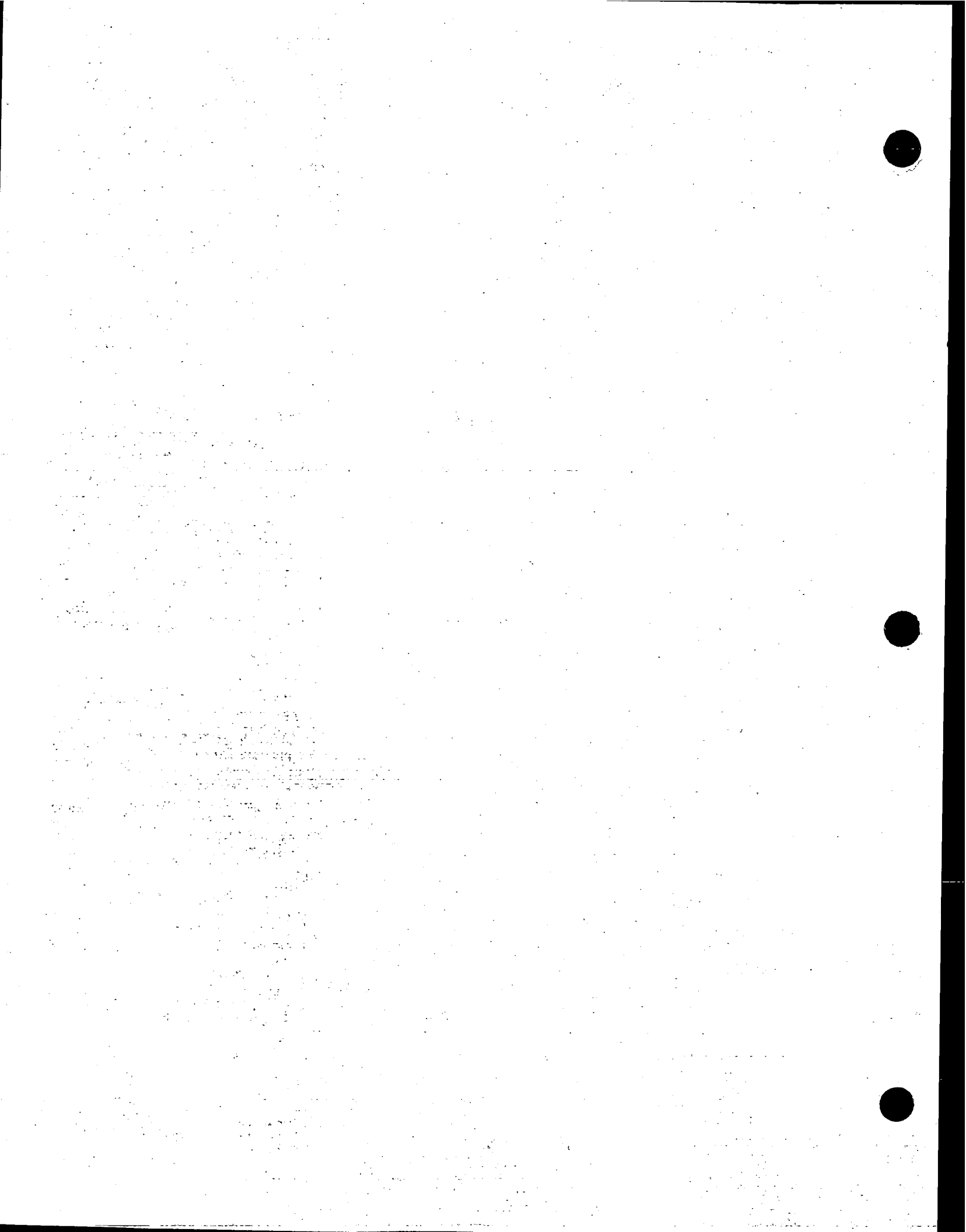
It is through combining cognitive interview techniques, psychological first aid and victim assistance referral that we can best assist our victim or witness and our own investigation. Cognitive interview techniques help the victim or witness to develop a complete understanding of the event. Psychological first aid helps re-establish a sense of trust between the victim and society, with the law enforcement investigator as its representative. Proper referral for victim assistance helps to reestablish equilibrium and a sense of control.

### Conclusion

FLETC is committed to providing training that enables officers and investigators to conduct effective victim/witness interviews. We feel that a two-pronged interview technique designed to provide psychological first aid while facilitating accurate memory recall best enables us to do just that. We challenge other training facilities to join us and to discover for themselves the effectiveness of such an approach. We look forward to hearing from others who have established similar training.

Determining the most effective and reliable tools available is the hallmark of most successful investigators. As training academies practice, refine and evaluate the techniques discussed here, we will continue to reap the benefits of aiding in and sustaining the emotional recovery of the victim or witness while increasing the amount of accurate information obtained. ★

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## EFFECTIVE VICTIM/WITNESS INQUIRY

### PRE INTERVIEW

- Select a quiet place with no distractions.
- Arrange your chair at 45 degree angle to divert direct eye contact during recall.
- Ask "Are You O.K.?" Let subjects vent emotions. Validate that feelings like anger and fear are normal.
- Instruct subjects that:
  - Remembering requires hard work
  - You need details, complete information
  - They should take their time, go slowly

### INTERVIEW

#### Obtain an uninterrupted narrative

- Have subjects reconstruct the environment...sights, sounds, smells and feelings...connected to the event
- Have subjects "picture" the event in their mind, get the picture sharp and give you all the details they can
- Wait through pauses

#### Explore important mental pictures

- Have subjects focus individually on each important mental picture
- Obtain a complete, uninterrupted narrative from each picture
- Provide encouragement after each picture is fully explored

#### Reconstruct narrative or key sequence of events

- Backward
- Describe the event through other senses like sounds, feelings
- By changing perspectives

#### Follow up questions

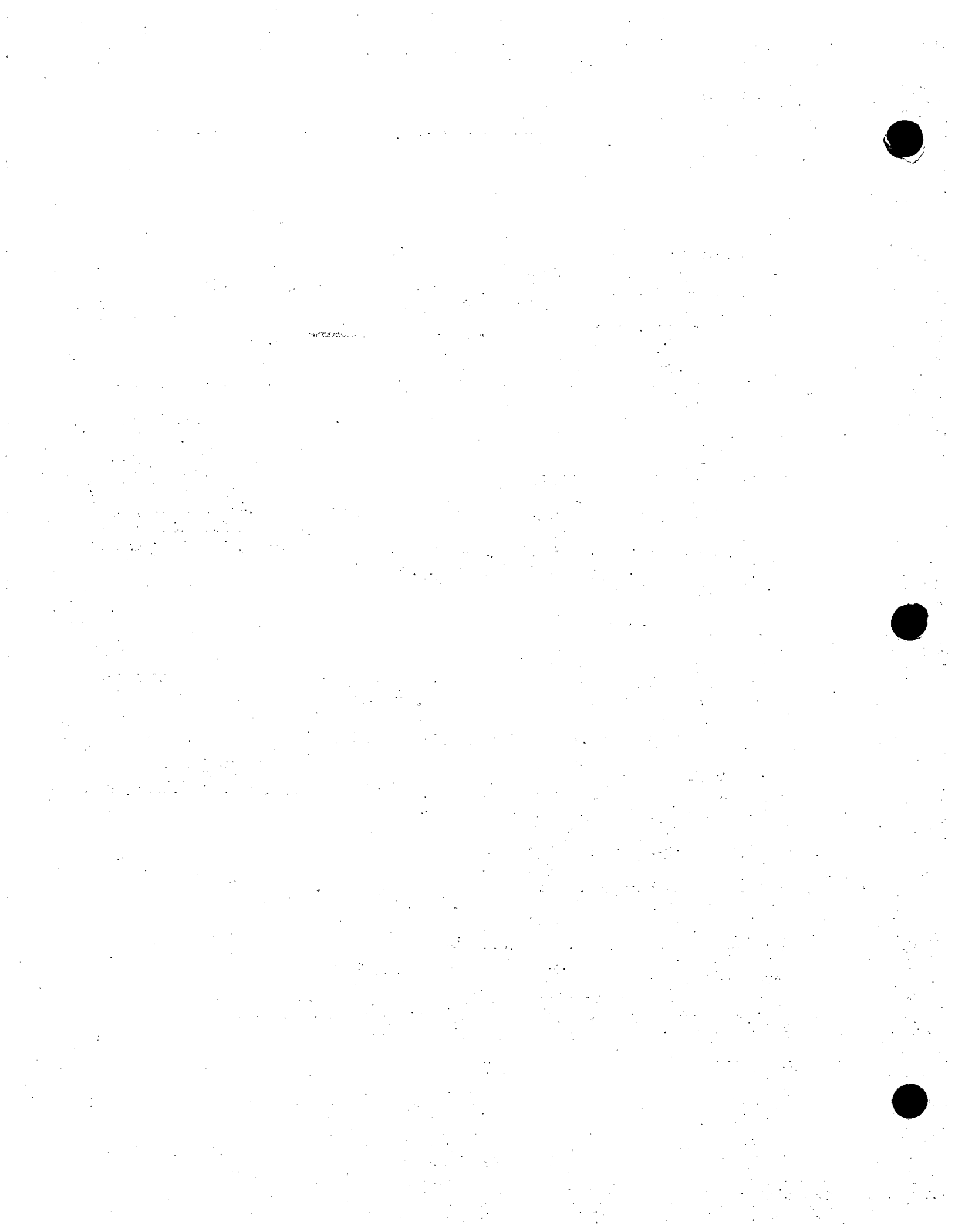
- Should be based on sights, sounds, smells and feelings
- Should be compatible with subjects' current mental picture

#### Summarize your interview...slowly

### POST INTERVIEW

- Encourage your subjects to report new information
- Refer victims to assistance programs





# *The Cognitive Interview*

## *Principles of Memory*

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- *Memory is a collection of elements*
  - *The more a method of retrieval has in common with the elements of that memory the more effective it is*
  
- *Memory has several access routes:*
  - *Sensory cues*
  - *Angles*
  - *Association*

# *Cognitive Interview*

## *Review of Key Concepts*

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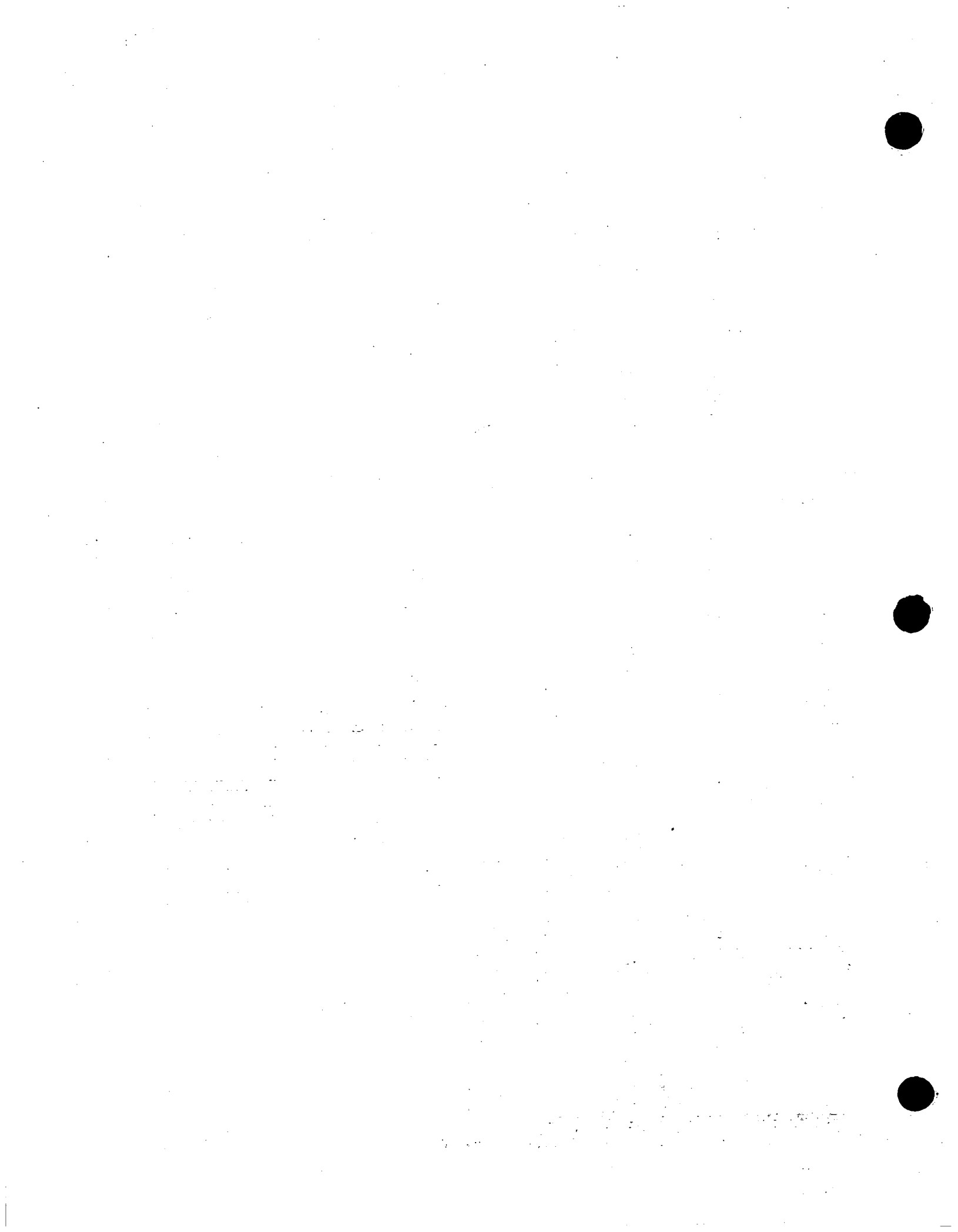
- *Remove emotional barriers*
- *Reconstruct the sensory environment in place when the crime occurred...include sounds, smells, feelings*
- *Probe each important image*
- *Don't interrupt*
- *Wait through pauses*
- *Follow-up questions should include all senses*

# *Cognitive Interview*

## *The 4 Step Process*

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- *Reconstruct the Circumstances*
- *Report Everything*
- *Report in a Different Order*
- *Change Perspective*





Office for Victims of Crime

# OVC Fact Sheet

*Advocating for the Fair  
Treatment of Crime Victims*

## THE OFFICE FOR VICTIMS OF CRIME

The Office for Victims of Crime (OVC) was established by the Victims of Crime Act of 1984 (VOCA) to serve as the Federal government's chief advocate for America's crime victims. OVC administers many formula and discretionary grants for programs designed to benefit victims, provides training for diverse professionals who work with crime victims, and develops projects to enhance victims' rights and services. Its mission is to provide victims with justice and healing.

A major responsibility of OVC is to administer the Crime Victims Fund, which is derived not from tax dollars, but from fines and penalties paid by Federal criminal defendants. Nearly 90 percent of the money collected each year -- \$233 million in 1995 -- is distributed to states for funding of victim assistance and compensation programs, the lifeline services that enable many victims to heal. Victim assistance funds support nearly 3,000 local victim services agencies, such as domestic violence shelters, child advocacy centers, and rape treatment programs. Compensation funds provide victims with out-of-pocket expenses resulting from crime, including medical costs, lost wages, and mental health counseling.

In addition, OVC sponsors training on a variety of victims' issues to many different professions, including victim service providers, law enforcement, prosecutors, the clergy, and medical and mental health professionals. Training is also provided for some 70 different Federal law enforcement agencies, such as the Department of Defense and the National Park Service.

Part of OVC's mission includes direct services to people victimized on tribal or Federal lands, such as military bases and national parks. OVC maintains an emergency fund to assist victims of Federal crimes with needed services, including temporary shelter and travel expenses to court. Using Crime Victims Fund dollars, OVC also sponsors programs in Indian Country to respond to the programs authorized in the Children's Justice and Assistance Act. These monies support the training of multi-disciplinary teams to handle child sexual abuse cases and comprehensive victim services.

Through discretionary grants, OVC has initiated many innovative projects that have had a national impact. The OVC Trainers Bureau brings top experts to local communities at no cost. The OVC Resource Center responds to thousands of callers via an 800 number and provides extensive information about a range of victims' issues. OVC has also funded important reports on civil legal remedies for victims, model anti-stalking laws, exemplary corrections programs that assist victims and train victim advocates, and protocols for handling offenses on tribal lands. In addition, OVC has helped develop numerous training curricula addressing hate crimes, elder abuse, and the role of the clergy in assisting victims. Other OVC funded projects include videotapes that educate children about testifying in court and a crisis response initiative that funded three teams that aided victims of the Murrah Federal Building bombing in Oklahoma City.

In many different ways, OVC attempts to accomplish its mission of justice and healing through direct services to crime victims, training programs that reach diverse professionals across America, and model projects that can be used throughout the country.

## MISSION AND GOALS OF THE OFFICE FOR VICTIMS OF CRIME

The Office for Victims of Crime is committed to enhancing the Nation's capacity to assist crime victims and to providing leadership in changing attitudes, policies, and practices to promote justice and healing for all victims of crime.

*OVC works with national, international, state, military, and tribal victim assistance and criminal justice agencies, as well as other professional organizations, to promote fundamental rights and comprehensive services for crime victims. OVC, with diverse input from the field, has established the following goals for 1997:*

- GOAL 1 The enactment and enforcement of consistent, fundamental rights for crime victims in federal, state, juvenile, military, and tribal justice systems, including through a Victims' Rights Constitutional Amendment.
- GOAL 2 Comprehensive, quality services for all crime victims, regardless of the nature of their victimization, age, gender, race, ethnicity, religion, sexual orientation, capability, or geographic location.
- GOAL 3 Department-wide compliance with the Presidential Directive on Victims' Rights and the *Attorney General Guidelines for Victim and Witness Assistance*.
- GOAL 4 Integration of crime victims' issues into all levels of the nation's educational system to increase public awareness.
- GOAL 5 Comprehensive, quality training for service providers who work with crime victims to help "professionalize" the field.
- GOAL 6 *A National Crime Victims Agenda* to provide a guide for long-term action.
- GOAL 7 Evaluation of OVC grant programs to improve the effective delivery of victim services through Federally-funded programs.
- GOAL 8 Close coordination with DOJ components, other Federal agencies, and the private sector in developing new initiatives to benefit crime victims.
- GOAL 9 International leadership role in promoting effective and sensitive victim services and rights around the world.
- GOAL 10 A central role for crime victims in the Nation's response to violence and victimization.



Office for Victims of Crime

# OVC Fact Sheet

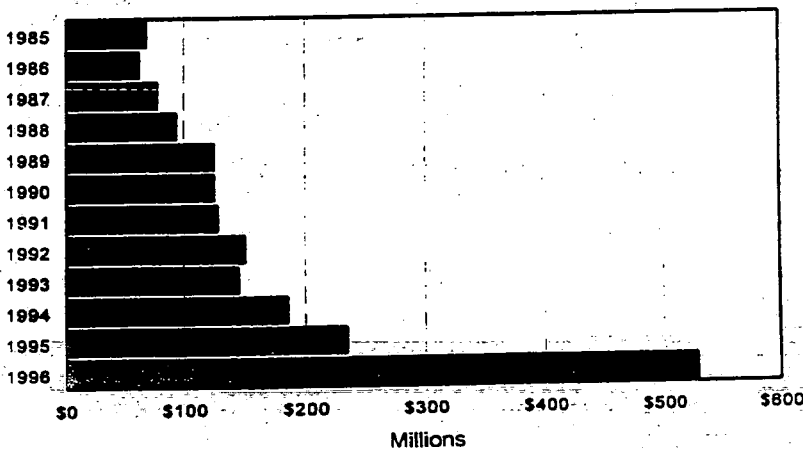
Advocating for the Fair  
Treatment of Crime Victims

## Victims of Crime Act Crime Victims Fund

The Crime Victims Fund was established by the Victims of Crime Act of 1984 (VOCA) and serves as a major funding source for victim services throughout the country. Each year, millions of dollars are deposited into this Fund from criminal fines, forfeited bail bonds, penalty fees, and special assessments collected by U.S. Attorneys' Offices, U.S. Courts, and the Bureau of Prisons. These dollars come from offenders convicted of Federal crimes -- not from taxpayers.

Deposits into the Fund fluctuate from year to year. The following chart depicts deposits into the Fund from 1985 through 1996.

Crime Victims Fund Deposits  
Available for Victims' Programs



1996 deposits total more than \$528 million dollars, by far the highest amount in the history of the Fund. These funds will be available for crime victims' programs during FY 1997.

### How are Fund deposits disbursed?

The first \$10 million is used to improve the investigation and prosecution of child abuse cases. The \$10 million is divided between the U.S. Department of Health and Human Services (\$8.5 million) and OVC (\$1.5 million). The portion administered by OVC is used exclusively to help

Native Americans improve the investigation and prosecution of child abuse cases, particularly child sexual abuse.

The remaining Fund deposits are distributed in the following ways:

- \* 48.5 percent to state compensation programs;
- \* 48.5 percent to state assistance programs; and
- \* 3 percent for discretionary funds to provide training and other assistance to expand and improve the delivery of services to crime victims.

## VICTIM COMPENSATION

### What is crime victim compensation?

Crime victim compensation is a direct reimbursement to, or on behalf of, a crime victim for crime-related expenses such as:

- \* medical costs;
- \* mental health counseling;
- \* funeral and burial costs; and
- \* lost wages or loss of support.

Other compensable expenses may include eyeglasses or other corrective lenses, dental services and devices, prosthetic devices, and crime scene clean-up.

### What is a crime victim compensation program?

Every state administers a crime victim compensation program. These programs provide financial assistance to victims of both Federal and state crimes. Although each state compensation program is administered independently, most programs have similar eligibility requirements and offer a comparable range of benefits. Maximum awards generally range from \$10,000 to \$25,000.

The typical state compensation program requires victims to report crimes within 3 days and to file claims within a fixed period of time, usually two years. Most states can extend these time limits for good cause. If other financial resources are available, such as private insurance, compensation



is paid only to the extent that the collateral resource does not cover the loss.

### Which states receive VOCA compensation grants?

49 states, the District of Columbia, and the U.S. Virgin Islands receive VOCA compensation grants.

A state is eligible to receive a VOCA compensation grant if it meets the criteria set forth in VOCA and OVC's Program Guidelines. Examples of such criteria include providing services for Federal crime victims and assisting victims who are victimized within the state when the victim resides in another state. Under the 1996 Antiterrorism Act, states must also provide compensation to residents who are victims of terrorist acts within or outside the United States.

The formula for VOCA compensation grants to states is based on a percentage of state payments to crime victims in a previous year.

## VICTIM ASSISTANCE

### What is victim assistance?

Victim assistance includes services such as:

- \* crisis intervention;
- \* counseling;
- \* emergency shelter;
- \* criminal justice advocacy; and
- \* emergency transportation.

Throughout the nation, there are approximately 10,000 organizations that provide these and other services to crime victims. Nearly 2,300 of those organizations receive some VOCA funds.

### Which states receive VOCA victim assistance grants?

All states and territories receive an annual VOCA victim assistance grant. Each state, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico receive a base amount of \$500,000. The territories of the Northern Mariana Islands, Guam, and American Samoa each receive a base amount of \$200,000. Additional funds are distributed based on population.

States award VOCA funds to local community-based organizations to provide services directly to victims of crime.

### How do states determine which organizations will receive VOCA grants?

Each state has discretion to determine which organizations will receive funding based upon the VOCA victim assistance guidelines and the needs of crime victims within the state. Most states make awards on a competitive basis.

VOCA assistance funds may be used only for direct services to crime victims. Services such as

offender rehabilitation, criminal justice improvements, and crime prevention activities cannot be supported with VOCA assistance funds.

## DISCRETIONARY FUNDS

### What are discretionary funds?

The purpose of the discretionary grant program is to improve and enhance the availability of victim services. Each year, the OVC Director develops a *Program Plan* which identifies the training and technical assistance initiatives to be funded on a competitive basis in the coming year.

### How are the discretionary funds used?

At least half of all discretionary grant funds are dedicated to improving the response to Federal crime victims. Initiatives include:

- \* training Federal criminal justice system personnel on victims issues;
- \* developing materials that help Federal victims understand their rights and available services; and
- \* supporting programs that establish and expand existing services for Federal crime victims.

The remaining discretionary funds support a variety of nationwide initiatives such as

- \* developing training curricula;
- \* training victim services and criminal justice professionals;
- \* working to raise the awareness of victims' rights and needs throughout the country; and
- \* identifying and disseminating promising practices in victim services.

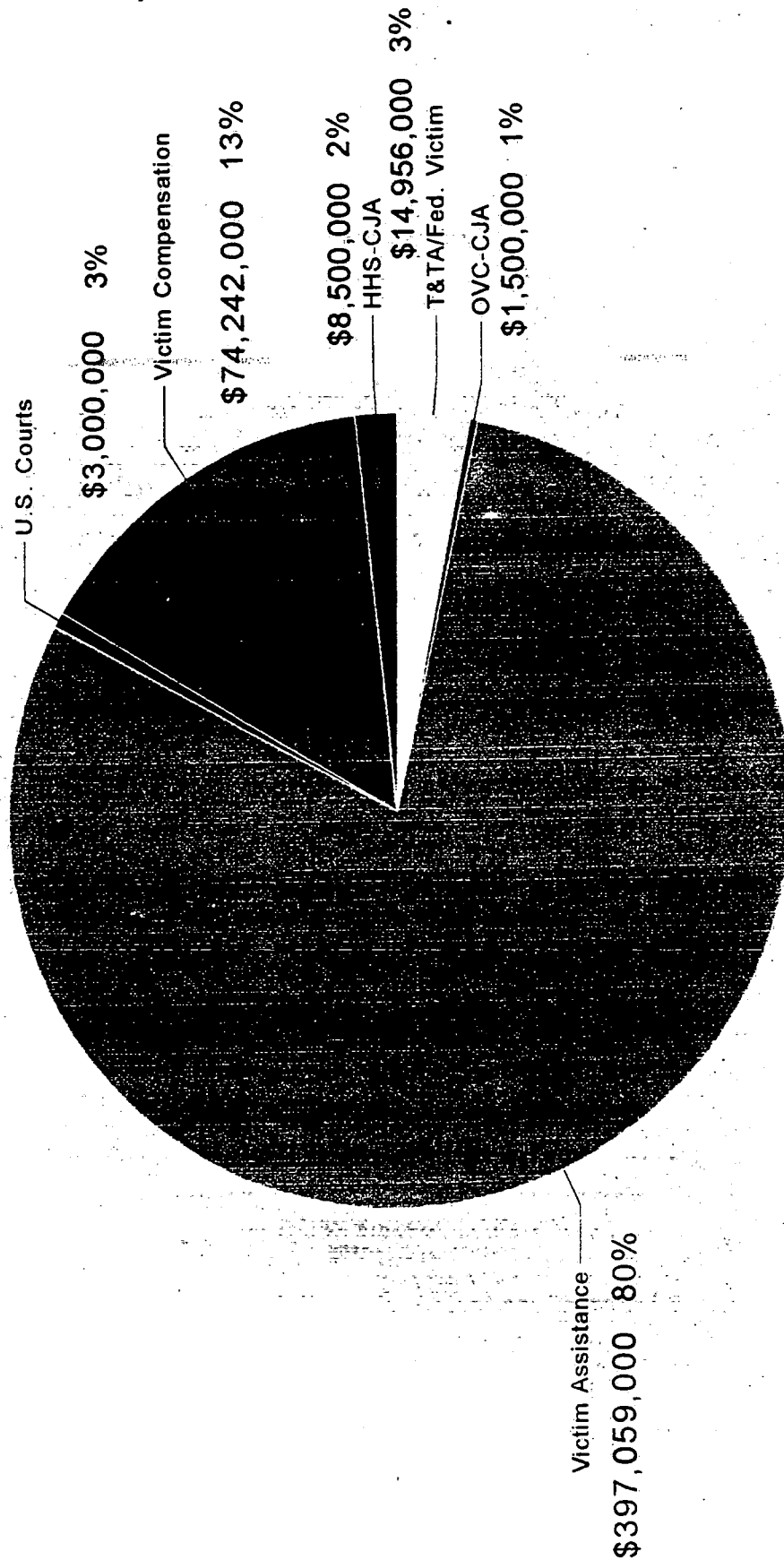
OVC also supports a national Resource Center on victim-related issues. The Center can be reached at: (800) 627-6872.

**For additional information on any of the activities described above, please contact the Office for Victims of Crime, 633 Indiana Avenue NW, Washington, DC 20531, phone (202) 307-5983, fax (202) 514-6383.**

**The OVC homepage is located at: <http://www.ncjrs.org/ovchome.htm>.**

# CRIME VICTIMS FUND -- DISTRIBUTION

FY 97 VOCA Grants from FY 96 Deposits



\$528,941,562 Deposits





Office for Victims of Crime

# OVC Fact Sheet

Advocating for the Fair

Treatment of Crime Victims

## State Crime Victim Compensation and Assistance Grant Programs

The Office for Victims of Crime (OVC) in the U.S. Department of Justice administers two major formula grant programs: *Victim Compensation* and *Victim Assistance*. Funding for the two programs comes from the Crime Victims Fund (Fund), which was established by the 1984 Victims of Crime Act (VOCA). The money in the Fund is derived from fines, penalty assessments, and bond forfeitures from convicted Federal offenders -- not taxpayers. OVC distributes over 90 percent of Fund deposits to support state victim compensation and assistance services for victims and survivors of domestic violence, sexual assault, child abuse, drunk driving, homicide, and other crimes. During the past decade, these two formula grant programs have greatly improved the accessibility of services to Federal and state crime victims nationwide. They make a significant difference in the lives of more than two million people victimized by crime each year.

### Victim Compensation Program

All 50 states, the District of Columbia, and the Virgin Islands have established victim compensation programs. Each of these programs reimburses victims for crime-related expenses such as:

- \* medical costs;
- \* mental health counseling;
- \* funeral and burial costs; and
- \* lost wages or loss of support.

Under the 1996 Antiterrorism Act, states must also provide compensation to residents who are victims of terrorist acts within or outside the United States.

Although each state compensation program is administered independently, most programs have similar eligibility requirements and offer a comparable range of benefits. Maximum awards generally range from \$10,000 to \$25,000. Compensation is paid only when other financial resources, such as private insurance or offender restitution, do not cover the loss. Certain expenses such as theft, damage, and property loss are not covered by most compensation programs.

To receive compensation, victims must comply with state rules, which generally require that they cooperate with the reasonable requests of law enforcement and submit a timely application to the compensation program.

VOCA funds supplement state efforts to compensate crime victims. The formula for VOCA compensation grants to states is based on a percentage of state payments to crime victims in a previous year. From FY 1986 through FY 1997, OVC will have distributed more than \$637 million in VOCA compensation grant funds.

### Victim Assistance Program

Throughout the United States, approximately 10,000 organizations provide services to crime victims. These organizations include domestic violence shelters, rape crisis centers, child abuse programs, and victim services in law enforcement agencies, prosecutors' offices, hospitals, and social service agencies. The services provided include, but are not limited to:

- \* crisis intervention;
- \* counseling;
- \* emergency shelter;
- \* criminal justice advocacy; and
- \* emergency transportation.

VOCA funds awarded to states each year support more than 2,300 community-based organizations that serve crime victims.

States and territories are required to give priority to programs serving victims of domestic violence, sexual assault, and child abuse. Additional funds must be set aside for underserved victims, such as survivors of homicide victims and victims of intoxicated drivers.

All states and territories receive an annual VOCA victim assistance grant. Each state, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico receive a base amount of \$500,000. The territories of the Northern Mariana Islands, Guam, and American Samoa each receive a base amount of \$200,000. Additional funds are distributed based on population. From FY 1986 through FY 1996, states and territories received more than \$688 million in VOCA victim assistance grant funds. In FY 1997, OVC will distribute nearly \$400 million in VOCA victim assistance funds -- the highest award to states in the history of the program.

# State Compensation and Assistance Programs in the United States and U.S. Territories\*

<b>ALABAMA</b> Victim Assistance 334-242-5891  Victim Compensation 334-242-4007	<b>FLORIDA</b> Victim Assistance 904-922-0728  Victim Compensation 904-488-0848	<b>LOUISIANA</b> Victim Assistance 504-925-1997  Victim Compensation 504-925-1997	<b>NEVADA</b> Victim Assistance 702-688-1628  Victim Compensation 702-687-4065	<b>OREGON</b> Victim Assistance 503-378-5348  Victim Compensation 503-378-5348	<b>VERMONT</b> Victim Assistance 802-828-3378  Victim Compensation 802-828-3374
<b>ALASKA</b> Victim Assistance 907-465-4356  Victim Compensation 907-465-3040	<b>GEORGIA</b> Victim Assistance 404-559-4949  Victim Compensation 404-559-4949	<b>MAINE</b> Victim Assistance 207-289-5060  Victim Compensation 207-626-8800	<b>NEW HAMPSHIRE</b> Victim Assistance 603-271-1297  Victim Compensation 603-271-1284	<b>PALAU</b> Victim Assistance 011-680-488-2813 or 011-680-488-2553	<b>VIRGINIA</b> Victim Assistance 804-786-4000  Victim Compensation 804-367-8686
<b>AMERICAN SAMOA</b> Victim Assistance 011-684-633-5221	<b>GUAM</b> Victim Assistance 011-671-475-3406  Victim Compensation 011-671-475-3406	<b>MARYLAND</b> Victim Assistance 410-767-7477  Victim Compensation 410-764-4214	<b>NEW JERSEY</b> Victim Assistance 609-984-7347  Victim Compensation 201-648-2107	<b>PENNSYLVANIA</b> Victim Assistance 717-787-2040  Victim Compensation 717-787-2040	<b>VIRGIN ISLANDS</b> Victim Assistance 809-774-6400  Victim Compensation 809-774-1166
<b>ARIZONA</b> Victim Assistance 602-223-2480  Victim Compensation 602-542-1928	<b>HAWAII</b> Victim Assistance 808-586-1282  Victim Compensation 808-587-1143	<b>MASSACHUSETTS</b> Victim Assistance 617-727-5200  Victim Compensation 617-727-2200 Ext 2251	<b>NEW MEXICO</b> Victim Assistance 505-841-9432  Victim Compensation 505-841-9432	<b>PUERTO RICO</b> Victim Assistance 809-723-4949  Victim Compensation 401-277-2620	<b>WASHINGTON</b> Victim Assistance 360-586-0253  Victim Compensation 360-902-5340
<b>ARKANSAS</b> Victim Assistance 501-682-3671  Victim Compensation 501-682-1323	<b>IDAHO</b> Victim Assistance 208-334-5580  Victim Compensation 208-334-6000	<b>MICHIGAN</b> Victim Assistance 517-373-1826  Victim Compensation 517-373-0979	<b>NEW YORK</b> Victim Assistance 518-457-1779  Victim Compensation 518-457-8063	<b>RHODE ISLAND</b> Victim Assistance 401-277-2620  Victim Compensation 401-277-2500 Ext 33	<b>WEST VIRGINIA</b> Victim Assistance 304-558-8814  Victim Compensation 304-347-4850
<b>CALIFORNIA</b> Victim Assistance 916-324-9140  Victim Compensation 916-323-3432	<b>ILLINOIS</b> Victim Assistance 312-793-8550  Victim Compensation 217-782-7101	<b>MINNESOTA</b> Victim Assistance 612-643-3444  Victim Compensation 612-282-6267	<b>NORTH CAROLINA</b> Victim Assistance 919-571-4736  Victim Compensation 919-733-7974	<b>SOUTH CAROLINA</b> Victim Assistance 803-896-7896  Victim Compensation 803-734-1930	<b>WISCONSIN</b> Victim Assistance 608-267-2251  Victim Compensation 608-266-6470
<b>COLORADO</b> Victim Assistance 303-239-4442  Victim Compensation 303-239-4442	<b>INDIANA</b> Victim Assistance 317-232-2560  Victim Compensation 317-232-2560	<b>MISSISSIPPI</b> Victim Assistance 601-359-7880  Victim Compensation 601-359-6766	<b>NORTH DAKOTA</b> Victim Assistance 701-328-6195  Victim Compensation 701-328-6195	<b>SOUTH DAKOTA</b> Victim Assistance 605-773-4330  Victim Compensation 605-773-6317	<b>WYOMING</b> Victim Assistance 307-635-4050  Victim Compensation 307-635-4050
<b>CONNECTICUT</b> Victim Assistance 806-529-3089  Victim Compensation 806-529-3089	<b>IOWA</b> Victim Assistance 515-281-5044  Victim Compensation 515-281-5044	<b>MISSOURI</b> Victim Assistance 573-751-4905  Victim Compensation 573-751-7646	<b>NORTHERN MARIANA ISLANDS</b> Victim Assistance 011-670-664-4550	<b>TENNESSEE</b> Victim Assistance 615-313-4700  Victim Compensation 615-741-2734	
<b>DELAWARE</b> Victim Assistance 302-577-3697  Victim Compensation 302-995-8383	<b>KANSAS</b> Victim Assistance 913-296-2215  Victim Compensation 913-296-2359	<b>MONTANA</b> Victim Assistance 406-444-3604  Victim Compensation 406-444-3653	<b>OHIO</b> Victim Assistance 614-644-5610  Victim Compensation 614-466-8439	<b>TEXAS</b> Victim Assistance 512-463-1919  Victim Compensation 512-936-1200	
<b>DISTRICT OF COLUMBIA</b> Victim Assistance 202-842-8467  Victim Compensation 202-842-8467	<b>KENTUCKY</b> Victim Assistance 502-564-7554  Victim Compensation 502-564-7986	<b>NEBRASKA</b> Victim Assistance 402-471-2194  Victim Compensation 402-471-2194	<b>OKLAHOMA</b> Victim Assistance 405-557-6700  Victim Compensation 405-557-6700	<b>UTAH</b> Victim Assistance 801-533-4000  Victim Compensation 801-533-4000	

\* These programs are located within different agencies, depending on the state.

For additional information, please contact the Office for Victims of Crime, State Compensation and Assistance Division, 633 Indiana Avenue NW, Washington, D.C. 20531, phone (202) 307-5983, fax (202) 514-6383. The OVC homepage is located at: <http://www.ncjrs.org/ovchome.htm>.



Office for Victims of Crime

# OVC Fact Sheet

Advocating for the Fair  
Treatment of Crime Victims

## CHILDREN'S JUSTICE ACT GRANT PROGRAM FOR NATIVE AMERICANS

*The Federal Crime Victims Division within the Office for Victims of Crime (OVC), provides funding to assist American Indian tribes develop, establish, and operate programs to improve the investigation, prosecution and handling of child abuse cases, particularly cases of child sexual abuse, in a manner that limits additional trauma to the child victim.*

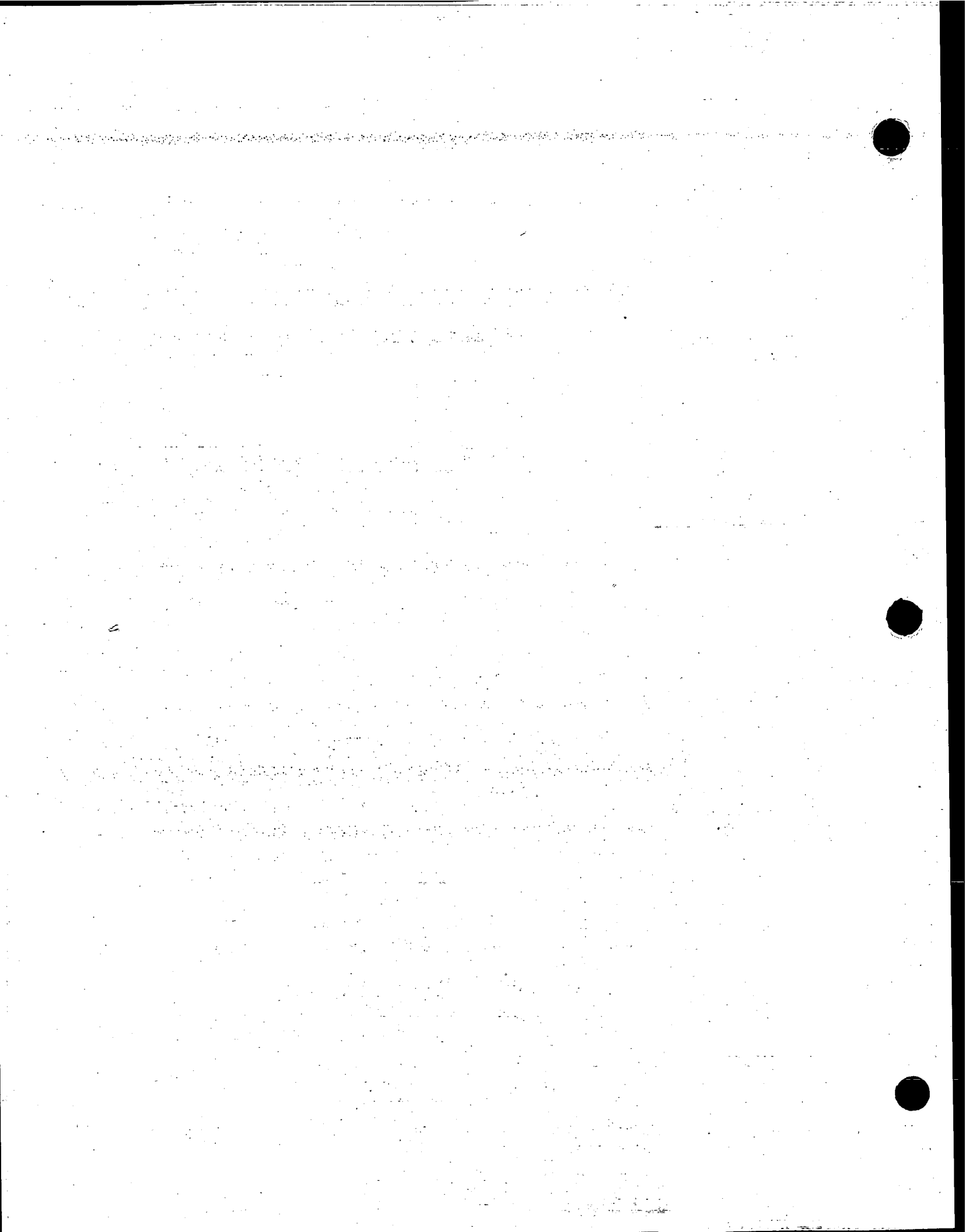
\* \* \* \* \*

The primary goal of the Children's Justice Act Grant Program for Native Americans (CJA) is to make systemic improvement in the overall response to serious child abuse and child sexual abuse cases on Indian reservations and other locations where Federally recognized Indian tribes exist. Programs funded through CJA are intended to address shortcomings in the criminal justice system for handling child abuse cases through improved investigative and prosecutorial practices, efficient case coordination, and improved services for Native American child victims and their families.

The CJA program is the only source of federal funding for tribes that focuses on improving the criminal justice process by increasing support for and lessening the trauma to Native American child victims. A total of \$1,500,000 is available annually for this grant program. Grants are made directly to Indian tribes and tribal organizations to address a range of systemic improvements. Since CJA was established in 1989, OVC has funded 40 tribal programs. The CJA projects have supported:

- \* establishment, expansion and training for multidisciplinary teams,
- \* revision of tribal codes to address child sexual abuse,
- \* provision of child advocacy services for children involved in court proceedings,
- \* development of protocols and procedures for reporting, investigating, and prosecuting child sexual abuse cases,
- \* improved coordination that minimizes the number of child interviews,
- \* enhanced case management and treatment services,
- \* specialized training for prosecutors, judges, investigators and other professionals who handle child sexual abuse cases, and
- \* development of procedures for establishing and managing child-centered interview rooms.

For information about the Children's Justice Act Discretionary Grant Program for Native Americans, you may contact Cathy Sanders at (202) 616-3578.





Office for Victims of Crime

# OVC Fact Sheet

Advocating for the Fair

Treatment of Crime Victims

## OVC EFFORTS TO ASSIST U.S. ATTORNEYS' OFFICES

The Office for Victims of Crime (OVC) administers the Crime Victims Fund and provides training about the rights and needs of our nation's crime victims. The Crime Victims Fund is supported by fines and special assessments collected from federal criminal offenders -- not by tax dollars. A large part of this money is collected through the diligent efforts of Assistant U.S. Attorneys (AUSAs) and Financial Litigation Units (FLUs). Approximately 90 percent of the Fund -- which totalled \$233 million in 1995 -- is distributed by formula to states to support victim assistance and compensation programs that provide services to federal and state crime victims.

OVC provides many programs, materials, and funding opportunities to enhance U.S. Attorneys' efforts on behalf of crime victims. These include:

### PRESS OPPORTUNITIES

- 1) Press Releases Regarding Victims of Crime Act (VOCA) Grant Awards to the States: OVC sends each U.S. Attorney information describing OVC crime victim assistance and compensation grant awards to states, as well as a draft press release. Many U.S. Attorneys' offices use this information to inform the public of their role in helping to support local victim service agencies. Some U.S. Attorneys have invited local crime victim advocates and state VOCA administrators to participate in press conferences announcing these grants and the significance of programs receiving VOCA funding.
- 2) National Crime Victims Rights Week (NCVRW): Traditionally celebrated during the last week of April, NCVRW affords U.S. Attorneys an opportunity to play a leadership role in publicizing crime victims' issues. Each year, OVC sends U.S. Attorneys NCVRW resource kits containing model press releases, statistics on crime victimization, information about state and local resources, camera-ready art, and other informational materials. During NCVRW, each office can organize a major event in collaboration with local victims' organizations to highlight victims' concerns and publicize district-specific efforts on their behalf.
- 3) Crime Victims Fund Awards: U.S. Attorneys can nominate AUSAs and FLU personnel for the annual Crime Victims Fund Award. The Attorney General confers the award at a ceremony in Washington D.C. to honor federal employees for their extraordinary efforts in seeking innovative fine settlements with offenders and collecting the fines that make victim assistance and compensation programs possible. Nomination forms are sent to each district.



## OVC FUNDING, PROGRAMS, AND SERVICES

- 1) District Specific Training: OVC provides funding for discipline-specific conferences and workshops that are planned and designed by districts to meet their unique needs, as well as scholarships for conference participants from remote areas. These conferences assist U.S. Attorneys in their compliance with federal crime victims' legislation and improves the response of federal criminal justice, tribal, military, and other personnel within their districts to the needs of federal crime victims.
- 2) Huntsville Child Sexual Abuse Conference: OVC sponsors teams nominated by U.S. Attorneys' offices to attend the National Symposium on Child Sexual Abuse in Huntsville, Alabama where teams receive multidisciplinary training on handling child sexual abuse cases. OVC also sponsors a special Federal Training Day that focuses on federal child sexual abuse issues.
- 3) Victim-Witness Coordinator Training: OVC and EOUSA have provided Coordinators with basic to advanced skills training at annual conferences.
- 4) Emergency Assistance Fund: OVC sets aside money each year to fund services requested by U.S. Attorneys' offices for federal crime victims. The Federal Emergency Assistance Fund has been used to pay for transportation costs to court, crisis counseling, emergency shelter, emergency child care, and other essential direct services where local services are unavailable. Although no cap has been set on individual requests, the total amount available for use by all 94 U.S. Attorney's offices in FY 1996 is \$75,000.
- 5) Trainers Bureau: The OVC Trainers Bureau funds trainers and experts to travel to districts to offer specialized training and technical assistance in victim-related topics, including the trauma of victimization, advocacy for victims in the criminal justice system, legal rights of victims, crime victim compensation, and program standards for victim services. These OVC-funded services are provided free of charge.
- 6) Immediate Responses to Emerging Problems (IREP): OVC funds emergency training and technical assistance to communities following large-scale crime victimizations. Emergency services, often provided by crisis response teams, can be mobilized within 24 to 48 hours of a district's request.
- 7) OVC Training Videos and Materials: OVC has helped produce a number of information resources, including videotapes, brochures, and resource packages. Some of these include:
  - Resource Package for Children Required to Testify in Federal Court
  - B.J. Learns About Federal and Tribal Court -- A Video
  - Financial Assistance for Crime Victims -- A Video
  - Inside Federal Court -- A Video
  - Bitter Earth -- Child Sexual Abuse in Indian Country -- A Video
  - White Collar Crime/Fraud Victim Resource Packages (Available late Fall, 1996)
- 8) National Strategy to Address Youth Violence: The Attorney General recently approved for release the *Strategy*, which seeks to combat violence committed by juveniles, particularly gang-involved youth. OVC will assist U.S. Attorneys' offices seeking to address the youth victimization provisions of the *Strategy* through training and technical assistance.



Office for Victims of Crime

# OVC Fact Sheet

*Advocating for the Fair*

*Treatment of Crime Victims*

## Community Crisis Response

The Office for Victims of Crime's (OVC) established its Community Crisis Response (CCR) program to improve services to victims of violent crime in communities that have experienced crimes resulting in multiple victimizations. CCR is designed to respond to communities and Federal, state, and local agencies that have unique multiple-victim needs. The program funds individual or teams of trained responders to assist victims through debriefings and training in the aftermath of criminal incidents of significant impact upon communities. This program provides a rapid response victim assistance training and technical assistance mechanism previously unavailable to communities.

This program has been used to bring a crisis response team to the Chicago Housing Authority's Robert Taylor Homes following a weekend in which 13 people were murdered; to assist the Ramah branch of the Navajo Nation after an eight-fatality drunk driving crash; to bring a noted psychologist to work with survivors and community members following a quadruple-homicide on the Wind River Indian Reservation; to provide help to the community of Dryden, NY after the brutal murder of two local high school girls; and to fund crisis response teams that provided training and debriefings for thousands of school children, teachers, and medical emergency personnel after the tragic bombing of the Murrah Federal Building in Oklahoma City, including a nine-member team that was on the ground in Oklahoma City the day of the blast.

### GOALS

- To improve services to multiple victims of violent crime by providing training and short-term technical assistance to communities that have experienced an incident or incidents resulting in large numbers of crime victims;
- To respond to the specific needs of agencies and communities in crisis situations in a timely manner;
- To increase the coordination among federal, state, and local agencies to provide effective victim assistance services; and
- To maximize available resources and reduce duplication of efforts.

### OBJECTIVES

- To provide specific, limited training and technical assistance based on the articulated needs of a community requiring immediate assistance to provide services to multiple victims of violent crime.
- To encourage agencies or communities to articulate specific, limited training and technical assistance needs;
- To tailor training and technical assistance to the requestor's individual needs; and
- To identify qualified individuals to deliver the training and technical assistance in a timely manner.

## PROGRAM STRATEGY

OVC will arrange technical assistance services in response to requests for assistance from eligible agencies. Eligible agencies include victim service agencies, federal, state, and local criminal justice system agencies, U.S. Attorney's Offices, Native American tribes, and other agencies that regularly assist victims of violent crime.

**Requests for assistance** must be submitted on agency letterhead and signed by the executive director/officer of the agency. The letter must include the following information:

- A clear statement of the facts surrounding the current situation;
- A description of how the request for **assistance is supported by major community agencies**, including a list of the local, state, and federal agencies involved and a description of their support for the request;
- A description of the "victimization" issues, numbers of victims, and the impact of the crime on the victims and the community. Applicants may also attach copies of newspaper articles or other documentation to provide background information;
- An explanation of why the community cannot address the situation with existing resources;
- A description of the specific technical assistance requested, the expected recipients of the technical assistance, and the desired outcome;
- If known, a description of the knowledge or skills required by the consultants providing the technical assistance;
- An estimate of the anticipated timeframe for the provision of the technical assistance;
- A description of the final product(s) sought from those providing technical assistance upon the completion of the delivery of such services (e.g., written report, verbal report, workshops, written assessment); and

- The name and phone number of the agency contact person who will be responsible for answering additional questions and coordinating with OVC, should the request be approved.

## SELECTION CRITERIA

OVC will review CCR requests within 48 hours (2 working days) of receipt. Requests will be reviewed and selected based upon the following criteria:

- The clarity of the request, including the description of the problem and need for the assistance;
- The potential impact of the assistance;
- The need for federal support to provide the assistance; and
- The ability of OVC to respond.

The OVC Director will approve or disapprove requests. OVC will entertain recommendations from the requestor for a contract vendor, but reserves the right to make a final determination based on other factors.

AN OVC contractor will handle all logistics for the consultant travel, per diem, and payment of fees. Consultants may receive a consultant rate of up to \$250 per day. Upon receipt of a request from OVC, the contractor will contract with the consultant/s to perform the requested training and/or technical assistance. When the task is complete, the contractor will reimburse the consultant/s for per diem, incidental expenses, and consultant fees. It is anticipated that approved on-site assistance will be short-term, generally between one and three days in duration.

## FURTHER INFORMATION

Send applications or information requests to:

Timothy J. Johnson, Community Crisis Response  
Office for Victims of Crime  
U.S. Department of Justice  
633 Indiana Avenue, NW, Room 1352  
Washington, DC 20531  
(202) 305-4548



Office for Victims of Crime

# OVC Fact Sheet

*Advocating for the Fair*

*Treatment of Crime Victims*

## Trainers Bureau

The Office for Victims of Crime's (OVC's) Trainers Bureau improves services to crime victims by providing training and technical assistance to victim assistance programs and other agencies that deal with crime victims. This initiative is designed to assist Federal, State, and local agencies in addressing administrative and programmatic issues.

### Goals

OVC has established the following goals for the Trainers Bureau:

- To stimulate the development of professional expertise in the field of victim services by identifying outstanding experts and model programs, policies, and practices.
- To make the expertise available to agencies through effective, high-quality training and short-term technical assistance.
- To cost-effectively deliver the assistance by targeting it to meet specific, priority needs.

### Services Provided

OVC has identified and recruited consultants, including:

- Skilled trainers to conduct workshops at conferences, seminars, and other training events.
- Professionals capable of providing effective onsite technical assistance to address significant operational problems and needs.

### Topics Covered

The Trainers Bureau offers expertise on a wide range of general and specific victim-related topics. Some examples of general topics include:

- Trauma of Victimization.
- Crisis Response Team Training.
- Advocacy for Victims in the Criminal Justice System.

- Legal Rights of Victims.
- Crime Victim Compensation Programs.
- Program Standards for Victim Services.
- Stress Management for Care Givers.

Additional subjects are categorized under the following topic areas:

- Criminal Justice System.
- Domestic Violence.
- Sexual Assault/Abuse.
- Allied Professionals Dealing With Crime Victims.
- Distinct/Underserved Victim Populations (e.g., Elderly Abuse Victims, Bias Crime Victims, Workplace Violence, Victims of Juvenile Offenders, Campus Crimes, Native American Crime Victims, and others).

### Application Information

To apply for Trainers Bureau training and technical assistance services:

- Explain the problem to be addressed and why it cannot be addressed with existing resources.
- Suggest a plan or specific action to address the problem.
- Give information about the number and current job responsibilities of the individuals to be trained or provided with technical assistance.
- Estimate the number of hours or days of assistance needed and anticipated timeframe for receiving assistance.
- Describe the expected outcome of the assistance and any end product sought (e.g., written report, verbal report, written assessment, or other).
- Indicate the knowledge and/or skills required by the individual(s) who will provide the assistance.

- 
- 
- Provide name, title, address, and telephone number of the agency contact.
  - Show agency commitment by including the signature of the agency's executive officer.

## Selection Criteria

The Trainers Bureau will consider the following criteria for selection of services:

- Clarity of the request, including the description of the problem.
- Potential impact of the assistance.

- Commitment of resources from other sources to support the training and technical assistance request.
- Need for Federal support to provide the assistance.

Special consideration will be given to requests where the assistance would have statewide or regional impact, or build inter-agency or multidisciplinary capacity to deliver services.

For additional information, contact the Trainers Bureau, Office for Victims of Crime, Special Projects Division, Suite 1352, 633 Indiana Avenue NW., Washington, DC 20531, 202-307-5950.



Office for Victims of Crime

# OVC Fact Sheet

Advocating for the Fair

Treatment of Crime Victims

## The Office for Victims of Crime Federal Crime Victims Division

The Federal Crime Victims Division (FCVD) is responsible for developing direct services for Federal crime victims and providing victim-witness assistance training and technical assistance to Federal officials. These efforts are all statutory requirements found in the Victims of Crime Act.

### Direct Services Efforts

**Programs for Native Americans:** OVC awards grants to Indian tribes under two separate programs. The "Assistance for Victim of Federal Crime in Indian Country" program awards grants to states to subgrant to Indian tribes to establish "on-reservation services" for victims in Indian country. Awards are also made directly to tribes to improve the investigation, prosecution and handling of child sexual abuse cases through OVC's "Children's Justice Act Discretionary Grant Program for Native Americans."

**Emergency Fund:** OVC has established an emergency services fund to meet the needs of Federal victims of crime when victim assistance services are otherwise unavailable. Victim-Witness coordinators in the 93 U.S. Attorneys' Offices can access the fund to meet the needs of victims when local service resources otherwise unavailable.

### Training and Technical Assistance

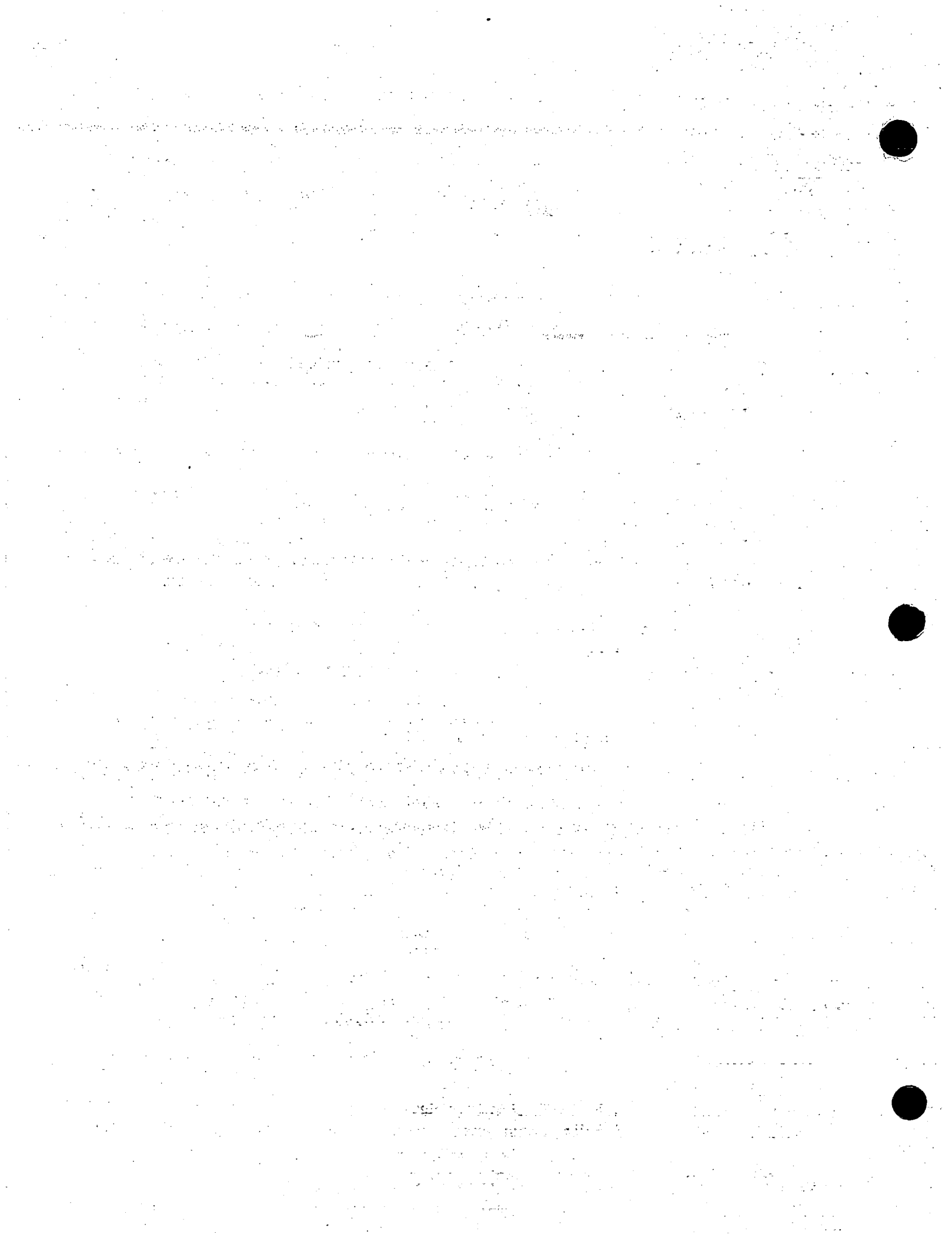
FCVD efforts include training programs for Federal criminal prosecutors, investigators and Victim-Witness Coordinators on handling cases in the Federal criminal justice system. Victim-witness training is provided to Federal law enforcement officers through interagency agreements between OVC and the Federal Law Enforcement Training Center, the FBI, and other Federal agencies. Training and technical assistance regarding the development of victim-witness policy, procedures and training is also provided to offices of U.S. Attorneys and to all Federal agencies.

### Resource Dissemination

The FCVD has various training curricula for direct service providers e.g., clergy, mental health professionals, that can be used as resources for Federal agencies. Videos have been produced to prepare children to testify in court and to explain victim assistance for Federal law enforcement agencies.

### Monitoring

OVC monitors compliance with various Federal victim-witness assistance statutes. Information is collected from Justice Department components and all Federal agencies and included in OVC's Report to Congress.





Office for Victims of Crime

# OVC Fact Sheet

Advocating for the Fair  
Treatment of Crime Victims

## STATE COMPENSATION AND ASSISTANCE DIVISION:

This Division is responsible for responding to the special needs of all innocent victims of violent crime through support of state and local crime victim compensation and assistance services programs as authorized by the Victims of Crime Act (VOCA). This is accomplished through the development and implementation of guidelines, the award of annual grants, monitoring, the provision of technical assistance, and collaboration and coordination with the national victims organizations, including the National Association of Crime Victim Compensation Boards, the National Victims Center, and the National Organization for Victim Assistance.

For nearly a decade, the State compensation and Assistance Division, (OVC) and state agencies designated by governors across the nation have joined together in a remarkable partnership to support direct services and financial assistance to crime victims. Each year, nearly 90 percent of the money deposited into the Crime Victims Fund is distributed to the states for funding of victim compensation and assistance programs.

These two programs work hand-in-hand to provide immediate financial and emotional assistance to victims in the aftermath of a criminal victimization. As a financial resource of last resort, Victim compensation payments cover out-of-pocket expenses commonly incurred by crime victims, such as unpaid medical bills, loss of support, counseling expenses, funeral expenses, and lost wages. Victim assistance funds, on the other hand, support local victim services agencies across the nation, including rape crisis centers, shelters for battered women, treatment centers for child sexual abuse victims, prosecutor-based victim assistance programs, mental health centers, and hospital-based victim services programs, which in turn help victims reorganize their lives following their victimization.

OVC's State Compensation and Assistance Division has been instrumental in supporting statewide and regional network training and technical assistance efforts by funding quality trainers and covering conference costs. In Fiscal Year 1995, OVC expanded this program to include support for victim assistance training at national conferences for professionals who work with crime victims.

During the past 2 years, OVC has co-sponsored nearly 20 state and regional victim assistance conferences. OVC is continuing and expanding its mini-grant program, formerly referred to as the State Conference Training Initiative. This funding is provided on a competitive basis to support statewide and regional victim assistance



conferences, as well as tracks of victim assistance training at national conferences of allied professionals. To be eligible for this on-going initiative, applicants must be designated by the State VOCA Victim Compensation and Victim Assistance administrators as the appropriate organization to sponsor a statewide conference. The State VOCA Victim Compensation or Victim Assistance agency, with the concurrence of the other, also may function as the conference sponsor.

### **Regional Technical Assistance Meetings for State VOCA Administrators**

OVC is also committed to supporting state VOCA administrators that wish to hold regional conferences to address mutual state concerns and unique needs of VOCA administrators. The State Compensation and Assistance Division will support and monitor regional meetings of state compensation and assistance who will plan, coordinate, and implement a regional conference to further the implementation of the VOCA formula grant programs and services to crime victims.

### **Mentor Program for VOCA Victim Compensation and Assistance State Administrators**

The role of state VOCA administrators is constantly changing and expanding. As a result, the State Compensation and Assistance Division has recently established a mentoring program for state VOCA administrators that would facilitate an administrator from one state offering technical assistance and peer consultation to an administrator in another state. Technical assistance and peer consultation may be offered in many different areas including use of administrative dollars to implement the VOCA grant program, planning statewide training, establishing program standards for both compensation and local victim assistance programs, and assessing needs and service delivery strategies, such as more efficient processing of compensation claims. In addition, the mentoring program will facilitate one-on-one technical assistance and peer consultation for new state administrators.



Office for Victims of Crime

# OVC Fact Sheet

*Advocating for the Fair*

*Treatment of Crime Victims*

## The Office for Victims of Crime Special Projects Division

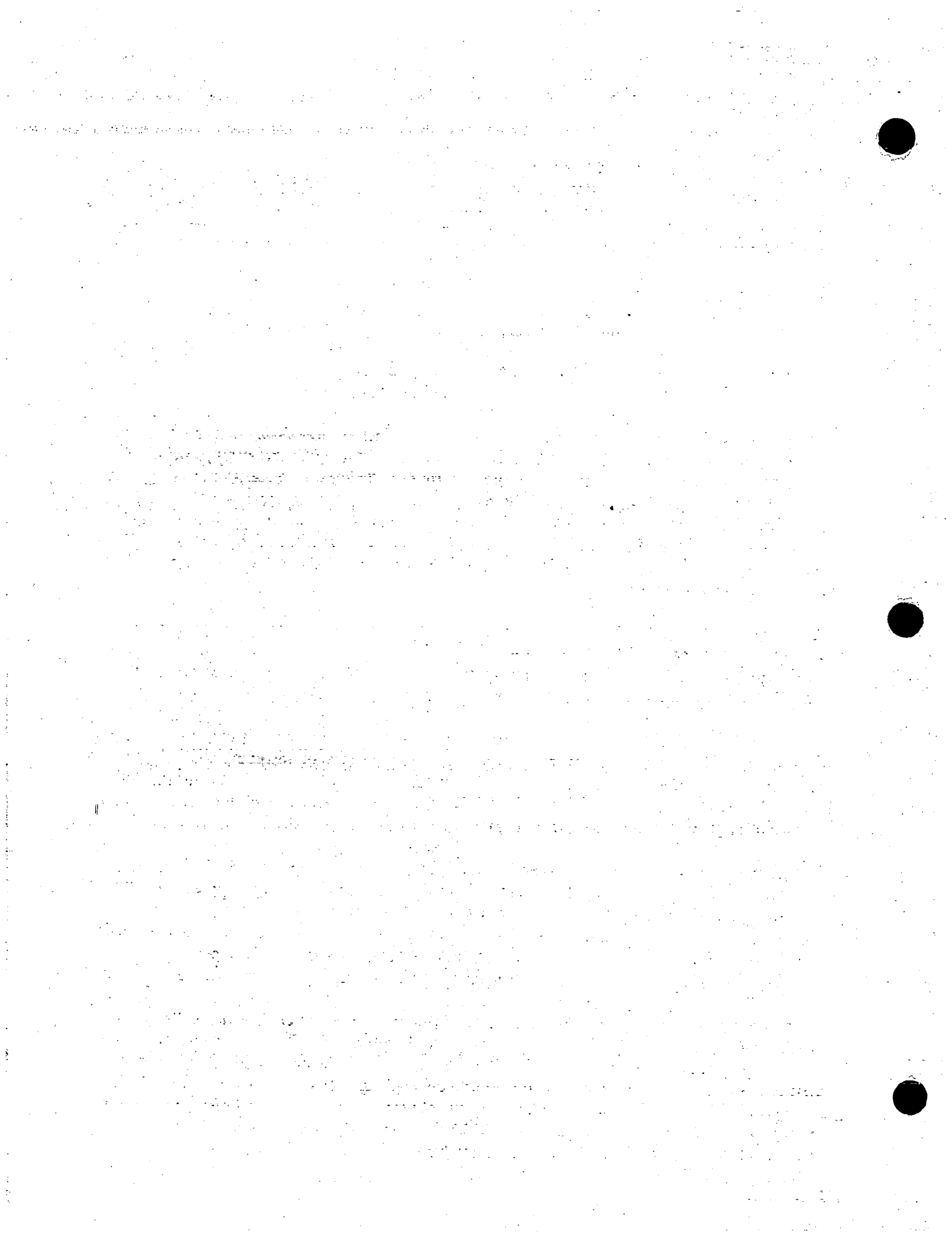
Efforts undertaken by the Special Projects Division (SPD) of OVC serve many constituent groups, including crime victims and their advocates, the criminal justice system, victim service providers and allied professionals, and the general public. These efforts are responsive not only to the Victims of Crime Act of 1984 (VOCA), but also to the recommendations set forth in the 1982 Final Report of the President's Task Force on Victims of Crime and the 1984 Final Report of the Attorney General's Task Force on Family Violence. The Division is also poised to flexibly respond to newly emerging issues in the field of victim assistance and to changing needs of our nation's crime victims.

The responsibilities of the Division fall into three distinct, yet overlapping spheres: 1) providing training and technical assistance for the purpose of improving the treatment of crime victims; 2) launching special initiatives to address major issues and needs of the victims field; and 3) conducting communications and public information functions for the Office.

SPD fulfills its training and technical assistance function by planning, developing and managing discretionary training and technical assistance grants that target state and local criminal justice agencies; as well as victim service providers and allied professionals. It also manages the Trainers Bureau, which serves as a mechanism for brokering expert consulting services in response to requests for assistance from eligible agencies.

The staff of SPD are charged with designing special initiatives that respond to emerging issues and needs of the victims field. The initiatives may be specialized training programs based on outstanding model programs and service strategies. They may involve liaison efforts with national criminal justice professional associations, victim service organizations, or national and international bodies focusing on problems of special concern, such as violence against women — all aimed at bringing about institutional changes in the way crime victims are treated.

In its communications function, SPD staff manage the publication of OVC-generated materials such as topical bulletins, informational brochures, and the biannual Report to Congress. The Division has traditionally managed the National Victims Resource Center, the national clearinghouse for crime victim information. SPD also manages National Crime Victims Rights Week events, OVC's major annual public relations activity. Division staff coordinate the week's events, which include the presentation of Presidential Victim Service Awards and the Attorney General's Crime Victims Fund Awards.



# **VICTIMS AND CIVIL COURTS ANOTHER ROAD TO JUSTICE**

**David Beatty,**  
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**D. Thomas Nelson,**  
Assistant Director, Legal Services

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National Symposium on Victims of Federal Crime  
February 10 - 14, 1997  
Washington, DC

# **CIVIL LITIGATION \***

## **Advantages and Disadvantages**

### **Disadvantages**

1. Law suits are expensive
  - A. Lawyers Fees
  - B. Court Costs
  - C. Court Reporters
  - D. Cost of Investigation and Discovery
2. Victim Must Re-Live Trauma - Heels of Another Case
3. Civil Suits Very Slow

### **Advantages**

1. As Party to the Case, Victim in Control of Civil Suit
2. Victim has His/Her Day in Court
3. Don't Need Criminal Conviction
4. Few Limits on the Kinds of Damages Victims can Claim
  - A. Medical Expenses
  - B. Psychological Counseling and Therapy

\*These materials are excerpts from the manual: "Legal Remedies for Crime Victims Against Perpetrators: Basic Principles," by the National Victim Center, and sponsored by the U.S. Department of Justice Office for Victims of Crime.

C. Funeral Expenses

D. Property Damage

E. Loss of Wages

But Also:

F. Loss of Profit

G. Loss of Future Earnings

H. Family can Sue for Loss of Support

I. Loss of Companionship and Society

J. Pain and Suffering

K. Punitive Damages

5. No Limit on the Amount of Damages that can be Awarded in a Civil Suit

6. Amount is not Contingent on the Offender's Ability to Pay

7. Offender is Always Required to Pay Judgment in Full

8. Civil Judgments can Last Almost Indefinitely

9. Judgments are Enforceable in Other States

10. Enforceability of Civil Judgments

## A COMPARISON OF FIRST AND THIRD-PARTY LAWSUITS

### FIRST-PARTY

*Plaintiff vs Defendant*  
or  
*Victim vs Perpetrator*

THE TERM "PERPETRATOR", AS USED IN THIS PROJECT, ALSO INCLUDES OTHERS WHO CONSPIRE WITH, AID, OR ABET THE PERPETRATOR IN THE COMMISSION OF THE CRIME. LIKEWISE, PARENTS WHO FAIL TO CONTROL THEIR CHILDREN WHO COMMIT CRIMES, AND PERSONS WHO ENTRUST DANGEROUS INSTRUMENTALITIES (AUTOMOBILES, FIREARMS) TO PERPETRATORS, MAY ALSO BE CONSIDERED PERPETRATORS FOR THE PURPOSES OF THIS TRAINING.

### THIRD-PARTY

*Plaintiff vs Defendant*  
or  
*Victim vs. Third-party*

THE TERM "THIRD-PARTY DEFENDANTS" INCLUDES PERSONS WHOSE NEGLIGENCE OR GROSS NEGLIGENCE HAS CAUSED OR FACILITATED THE PERPETRATOR'S INFLICTION OF THE VICTIM'S INJURIES.

THIRD-PARTY DEFENDANTS MAY INCLUDE THE FOLLOWING:

- **Government:** for Failure to Protect
- **Correctional Officials:** for Release of Dangerous Prisoners
- **Mental Health Officials:** for Release of Dangerous Patients
- **Landlords:** for Failure of Security
- **Innkeepers:** for Failure of Security
- **Schools:** for Failure of Security
- **Hospitals:** for Failure of Security
- **Premises:** for Failure of Security
- **Employers:** for Negligent Employment or Retention of Dangerous Employees

**Major Points:**

1. How civil litigation differs from a criminal case -- a brief **ANATOMY OF A CIVIL CASE**, compared to a criminal case.

CRIMINAL CASE	CIVIL CASE
<b>INITIATION OF CASE</b>	
<ul style="list-style-type: none"> <li>▪ Arrest</li> <li>▪ Information or Indictment</li> <li>▪ Arraignment</li> </ul>	<ul style="list-style-type: none"> <li>▪ Claim or Demand Letter</li> <li>▪ Summons or Complaint</li> </ul>
<b>PRE-TRIAL</b>	
<ul style="list-style-type: none"> <li>▪ Discovery</li> <li>▪ Preliminary Hearings</li> <li>▪ Pre-trial Motions</li> <li>▪ Pre-trial Conferences and Hearings</li> <li>▪ Plea Negotiation</li> </ul>	<ul style="list-style-type: none"> <li>▪ Discovery</li> <li>▪ Pre-trial Motions</li> <li>▪ Pre-trial Conferences and Hearings</li> <li>▪ Settlement</li> </ul>
<b>TRIAL</b>	
<ul style="list-style-type: none"> <li>▪ Selection of Jury</li> <li>▪ Trial</li> <li>▪ Verdict: Guilty/Not Guilty</li> <li>▪ Pre-Sentence Investigation Report</li> <li>▪ Sentencing</li> </ul>	<ul style="list-style-type: none"> <li>▪ Selection of Jury</li> <li>▪ Trial</li> <li>▪ Decision: Liability/No Liability</li> <li>▪ Determination of Money Damages</li> </ul>



CRIMINAL CASE	CIVIL CASE
POST TRIAL	
<ul style="list-style-type: none"> <li>■ Execution of Sentence: <ul style="list-style-type: none"> <li>● Probation</li> <li>● Incarceration</li> <li>● Diversion</li> </ul> </li>   <li>■ Restitution Enforcement: <ul style="list-style-type: none"> <li>● Garnishment of Income</li> <li>● Lien on Prisoners' Wages</li> <li>● Revocation of Probation,</li> <li>● Parole or Work Release</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>■ Enforcement: <ul style="list-style-type: none"> <li>● Garnishment of Income</li> <li>● Attachment of Financial Assets</li> <li>● Seizure and Sale of Personal and Real Property.</li> <li>● Notoriety-For-Profit</li> </ul> </li> </ul>

2. The basic **PRINCIPLES OF CIVIL LITIGATION:**

■ **TORTS:**

For purposes of this training, a **tort** occurs when a person **intentionally injures** another, or when a person's **failure to perform his or her duty of care is the cause of injury** to another (negligence).

■ **INTENTIONAL TORTS** Against a Person Include:

- Battery
- Assault
- Wrongful Death
- Intentional, Reckless Infliction of Emotional Distress

■ **ELEMENTS** of a Tort:

- **Act:** Prove that defendant committed an act.
- **Harm:** Prove that harm was inflicted on plaintiff.

- **Causation:** Prove that the defendant's action directly or indirectly caused harm or injury.
- **Intent:** Prove that the defendant intended to inflict harm or injury.
- **Damages:** The measure of the harm or injury. Damages may include the following:

- ✓ **Compensatory:**

Payment -- for expected or incurred expenses.

- ✓ **Punitive:**

Punishment -- if defendant acted maliciously.

- ✓ **Pecuniary:**

Loss of potential income -- lost wages.

- **DEFENSES to Torts:**

- ✓ Contributory Negligence

- ✓ Assumption of Risk

- ✓ Comparative Negligence

- ✓ Statute of Limitations

- ✓ Self Defense/Defense of Others

■ **The Tort of NEGLIGENCE -- General Duty:** An act or omission of an act that breaches a "duty of care" and is the actual and proximate cause of plaintiff's injuries.

- **Different Types of GENERAL DUTY NEGLIGENCE:**

- ✓ **Duty of Care:** The *Reasonable Person Standard* -- Everyone owes a duty to act as a *reasonable person* would under similar circumstances.

- ✓ **To whom is duty of due care owed?** Generally speaking, if a *reasonable person* would not foresee injury to another person as a result of his or her

actions, then the actor is not liable for injuries that result from such actions.

✓ **Breach of Duty:** Conduct that exposes others to unreasonable risk or harm.

● **CAUSATION:**

✓ **Actual Cause:** Defendant's conduct must be the actual cause of plaintiff's injuries. For example: plaintiff would not have been injured but for the defendant's conduct.

✓ **Proximate Cause:** A policy decision as to who should bear loss for unexpected injuries or expected injuries caused in unexpected ways -- the *foreseeability factor*.

✓ **Indirect Causation:** Means that an **intervening force** extends the result of the defendant's act, or **combines** with the **defendant's act**, to produce the **injury**.

● **DAMAGES:**

✓ **Special:** Past, present and future economic losses.

✓ **General:** Inherent in the injury itself -- past, present, and future **pain and suffering, disfigurement and disability**.

✓ **Punitive:** Damages awarded to deter similar actions by defendant and other as a **matter public policy**.

● **DEFENSES TO NEGLIGENCE:**

✓ Consent

✓ Self Defense

✓ Defense of Third Persons

● **SPECIAL DUTY NEGLIGENCE:**

✓ Duty to Prevent Harm

✓ Duty by Defendant Charged with Care of Third Parties

- ✓ Duty to Control Third Parties
- ✓ Duties Related to Emotional Distress

### 3. STEP-BY-STEP OUTLINE OF A CIVIL CASE

#### STEP-BY-STEP OUTLINE OF A CIVIL CASE

##### PROCESS AND PROCEDURE

- Victim consults with and retains a civil attorney.
- Attorney conducts preliminary investigation into facts.

##### INITIATION OF A CIVIL SUIT

- Attorney files and/or serves defendants with a **COMPLAINT** setting forth allegations of tortuous acts committed by the defendants for which monetary damages are demanded.
- Defendants file an **ANSWER** to the complaint admitting or denying the allegations and raising defenses.

Note: The victim, as the **plaintiff** in a civil suit, is the party asserting claims against the **defendant** for the recovery of monetary damages. The **defendant** in a civil case may either be the **criminal perpetrator** or **others who may, in some way, be responsible for the criminal act.** The **defendant** attempts to counter the **factual claims** asserted by the **plaintiff** or by asserting justifications for their actions (i.e., "defenses").

## STEP-BY-STEP OUTLINE OF A CIVIL CASE

### BEFORE THE TRIAL BEGINS

- **Discovery:** Both sides exchange the factual information and evidence upon which they plan to prove their cases.

- The following procedures are commonly used during discovery process:
  - ✓ **Interrogatories:** Written questions answered under oath.
  - ✓ **Demands for Production:** Requests to produce documents, records, tapes and/or photos, such as medical data and expert reports.
  - ✓ **Requests for Admissions:** Written requests to admit or deny certain facts pertinent to the case.
  - ✓ **Depositions:** Opportunities for each party to have their attorney ask questions of the other parties, in person and under oath. This provides the opposing attorney with the opportunity to obtain sworn testimony which is used to ascertain what facts the parties and witnesses will testify to at trial.

**NOTE:** Victims have the right to have their attorney with them at all times during the deposition – to represent them, and to protect their rights and interests.

## STEP-BY-STEP OUTLINE OF A CIVIL CASE

- **Motions:** At various stages of the civil lawsuit, either party may make *motions*, which are formal *requests to the court* to intervene and resolve disputes between the parties concerning issues of law or procedure.
- **Pre-trial Conference:** Attorneys meet with the judge to discuss the status of the case, any problems concerning discovery, potential settlement and to agree upon other procedural matters such as trial dates.

## THE TRIAL BEGINS

- **PLAINTIFF** presents the case by offering witness testimony and physical evidence. The **DEFENDANT** may cross-examine the witnesses and object to the introduction of evidence. The defendant then presents witnesses and evidence. Plaintiff's attorneys will then have an opportunity to cross-examine defendant's witnesses and object to the introduction of evidence.
- At the end of the trial, each attorney is allowed to present closing statements which summarize the evidence and ask the jury to find in their favor.
- The judge will then instruct the jury as to the law that is applied in the case. The jury decides the facts and applies the law to reach the final decision. The jury's decision is called a *verdict*.

## STEP-BY-STEP OUTLINE OF A CIVIL CASE

- **Jury Verdict:** If the jury finds in favor of the plaintiff, it may award a sum of money as damages to be paid by the defendant. If it finds in favor of the defendant, no damages are awarded to the plaintiff.
  - Jury verdicts that award damages are called judgments.
  - In order to collect awarded damages, civil judgments must be *executed*.

### AFTER THE TRIAL

- **Execution (or Collection) of Judgments:** The judgment is filed and recorded in the court, County Clerk's Office and by the Secretary of State.
- **Discovery of defendant's assets** may be conducted under oath. Plaintiff's attorney may ask for all information about any and all of defendant's assets and sources of income.
- If the defendant appeals the verdict, then judgment collection efforts must be suspended until all appeals are completed.
- Judgments may be satisfied by:
  - Defendant's Insurance Company
  - Defendant's Personal Assets

# LIST OF POSSIBLE SOURCES TO SATISFY CIVIL JUDGMENTS

## Defendant/Offender's Assets

### SOURCES OF INCOME

Wages

Benefits  
(pension payment, annuities)

Unearned Income  
(dividends, interest, gifts)

Dispersals from Trust Funds

Tax Refunds

Government Entitlements

### PROPERTY AND HOLDINGS

Personal Property  
(cars, boats, jewelry, furnishings)

Real Property  
(home, land, etc.)

Future Interests in Real and  
Personal Property Through Wills,  
Trusts, etc.

Interests in Partnerships  
(especially doctors, lawyers)

Bank Accounts

Financial Holdings  
(stocks, bonds, mortgages)

All Other Debts That Are Owed to  
Offender/defendant



**LIST OF POSSIBLE SOURCES TO SATISFY CIVIL JUDGMENTS**

**OFFENDER'S INSURANCE POLICIES**

Homeowner's

Automobile

Personal Liability  
(Umbrella Policies)

Business/Partnership

Malpractice

## **Offender Assets Subject to Collection**

### **Income: From All Sources**

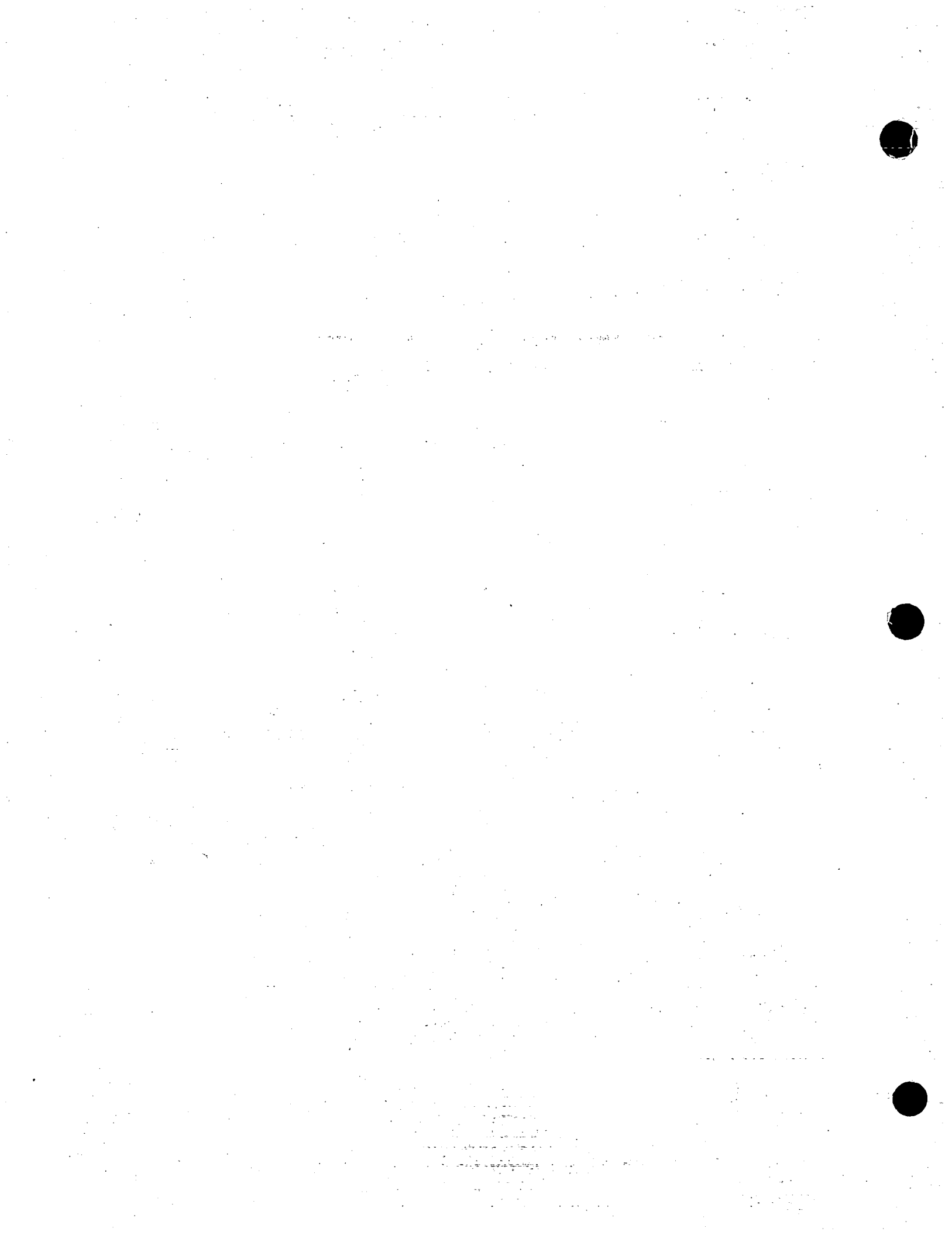
1. Wages - Garnishment
2. Benefits: Lien Against Pension Payment, Annuities, Insurance
3. Dispersals from Trust Funds, Royalties, Rent...
4. Tax Refunds and Government Entitlement  
(Welfare, Veteran's Benefits, Social Security Payments)

### **Property and Holdings**

1. Cars, Boats, Jewelry, Furnishings, and other Personal Possessions
2. Home and Real Estate
3. Future Interest in Property, Trusts, etc...
4. Business Interests, Partnerships, Businesses
5. Bank Accounts
6. Financial Holdings: Stocks, Bonds, Mortgages, Notes
7. All Other Debts Owed Offender

## **Insurance Policies Subject to Collection**

1. Homeowners Insurance
2. Automobile Insurance
3. Personal Liability Insurance
4. Business Insurance
5. Professional Insurance Policies



## MODULE NINE:

### LAWSUITS FOR SPECIAL VICTIM POPULATIONS

**TIME: 90 MINUTES**

**FORMAT: LECTURE**

**SUMMARY:**

This module discusses particular classes of cases -- child sexual abuse, domestic violence, sexual assault, campus crime and hate violence -- crimes with unique factors that make them stand out from traditional types of *victim versus perpetrator* litigation. These factors are:

- The crimes are highly sensitive and emotionally charged;
- The cases typically involve instances in which the perpetrators seek out the most vulnerable kinds of victims;
- The perpetrators are presumably collectable; and
- Currently, litigation in each area is occurring with increasing frequency.

#### OBJECTIVES OF SESSION

1. To familiarize victim advocates with the *Three C's of Crimes*:
  - **CONCEALED CRIMES:** Where the veil of secrecy is most often impenetrable. The dominant positions of abusers -- family members, teachers, clergy, youth group leaders and other authority figures -- almost guarantee the secrecy of the violations. Child sexual abuse is a classic example of a concealed crime.
  - **CONCEALABLE CRIMES:** These include crimes predominantly against adults where the victims are able to report the crime, but are reluctant to do so because of countervailing circumstances, such as intimidation. Crimes against women, especially domestic violence and sexual assault, fall into this category.

## OBJECTIVES OF SESSION

- **COVERED-UP CRIMES:** Generally these are crimes that occur on college campuses. They include crimes where the victims wish to report but are frequently dissuaded from doing so by officials who are more concerned with the *image* of the institution or organization they represent than with the welfare of the victim.

- **Hate crimes**, in which the victims are singled out because of their race, religion, or sexual preference, fall into all three classes of cases because they include elements of concealed, concealable and covered-up crimes.

2. To review issues relating to emotional distress in child abuse cases.

3. To highlight new developments with respect to liability for incest and abuse by authority figures and how these cases fare from the standpoint of collectability.

4. To define and discuss the importance of *statutes of limitations* and the *delayed discovery rule* as they relate to the viability of victims' cases.

5. To define the legal and factual issues involved in physical assault in *special cases* that will be most helpful to attorneys in establishing liability.

6. To explore how the law views the following psychological syndromes and to what extent they are being recognized by the courts:

- Post Traumatic Stress Disorder
- Rape Trauma Syndrome
- Battered Women's Syndrome

7. To discuss the recently-evolving case law relevant to victims of sexual abuse by professional perpetrators -- doctors, therapists and dentists.

8. To provide a brief overview of the newly-emerging area of case law relating to covered-up crimes. Specifically, two types of liability will be discussed:

- Failure to make student aware of the dangers on college campuses; and
- Preventing or dissuading students from reporting crimes.

9. To review cases in which state or Federal civil rights laws have been used effectively to recover damages for hate violence.

## MANUAL REFERENCES

### SECTION V. SPECIAL CASES

- **Three C's Crimes: Concealed, Concealable, and Covered-up** P. 199
- Chapter 2. Children as Victims: Sexual Abuse P. 202
  - Emotional Distress P. 204
  - Parental Liability Issues P. 214
  - Damages P. 216
  - Special Defendants: Authority Figures P.218
  - Child Sexual Abuse: Insured Perpetrators P. 227
    - Overview: Inferred Intent P. 227
    - Child-Care Entities: Insurance, Business, Babysitters, Foster Parent's Policies P. 233
  - Child Abuse and Incest: Statutes of Limitations and the *Delayed Discovery Rule* p. 244
- Chapter 3. Women as Victims: *Concealable Crimes* P. 264
  - Physical Assaults: Evidentiary and Procedural Issues P. 266
  - Emotional Trauma P. 270
  - Women Victims Versus Professional Perpetrators P. 275

## MANUAL REFERENCES

Chapter 4. Crimes on Campus: A Matter of National Concern	P. 290
▪ Campus Victimization: <i>Covered-up Crimes</i>	P. 292
▪ Campus Violence and the Law	P. 297
● Failure of Security Actions	P. 297
● Date and Acquaintance Rape on Campus	P. 300
Chapter 5. Hate Crimes	P. 306

### MAJOR POINTS ON CHILD ABUSE CASES:

1. Courts are extremely receptive to emotional distress claims in child abuse cases.
2. Generally, parents may only recover damages for negligent infliction of emotional distress if they actually witness the child abuse while in progress. Parents may, however, recover for intentional or reckless infliction of emotional harm.
3. Child molestation victims can receive damages for future loss of earning capacity.
4. With respect to child abuse cases, *INFERRED INTENT* to injure prohibits collecting damages under insurance claims:
  - ✓ Courts consider the crime of child abuse so horrible, that they will automatically infer an intent by the perpetrator to injure the victim. Therefore, the "inferred intent" exclusion in the homeowner's policy will apply, thus barring insurance coverage. Under these circumstances, the only option available to recover damages may be through the filing of a third-party lawsuit against some party other than the perpetrator (i.e., a *third-party*).

5. **Third-party lawsuits can be brought against the following entities:**

- |                                   |   |                   |
|-----------------------------------|---|-------------------|
| ✓ Clergy                          | ✓ Child Care  | ✓ Private Sitters |
| ✓ Teachers                        | ✓ Youth Groups  | ✓ Camps           |
| ✓ Schools                         | ✓ Foster Parents  | ✓ Businesses      |
| ✓ Health/Mental Health<br>Centers | ✓ Transportation<br>(personnel, <i>i.e.</i> , school<br>bus driver) |                   |

6. **Do not presume a victim has lost his or her opportunity to file a civil suit simply because the victimization happened long ago. Special statutes and court rules (i.e., the *delayed discovery rule*) allow victims to file suits many years after the crime was committed. The statute of limitations deadline for filing a civil case may be extended through an application of the DELAYED DISCOVERY rule in two types of child abuse cases:**

- **Type 1 -- Recollection --** The plaintiffs/victims have a recollection of the sexual assaults but do not know that their current psychological problems were caused by the assaults.
- **Type 2 -- Complete repression of memory --** The plaintiffs/victims repress recollections of the assaults to the extent that they have no memory of them at all until some later event triggers recall.

**Note:** Particularly in child abuse cases, you need to be aware that the accusation of the counselor's *power of suggestion* is used by defendants to undermine the credibility of child witnesses. Therefore, be careful in counseling and interviewing child victims to **AVOID LEADING QUESTIONS** that may jeopardize both civil and criminal cases against the abuser.

## **MAJOR POINTS ON WOMEN AS VICTIMS**

1. **Remember, a victim can bring a civil lawsuit for damages even if the perpetrator is acquitted in a criminal case.**



2. It is important to understand the bridge between the professional/clinical definition of Rape Trauma Syndrome, Battered Women's Syndrome and Post Traumatic Stress Disorder, and their applications in civil cases. Especially important is their role in establishing:
  - Damages; and/or
  - Insurer liability.
3. Remember: Your understanding of the degree of victims' psychological injuries is critical. You, as a counselor or advocate, will have unique insight into the question of whether victims could indeed be experiencing these syndromes. Such expertise can greatly assist attorneys and strengthen civil cases.

### **MAJOR POINTS ON PROFESSIONALS AS PERPETRATORS**

1. Be sure to find out if the victimization occurred during the course of the perpetrator's professional employment or in the performance of his or her professional duty.
2. Victim service providers will want to ask questions which help determine whether the victimization involved the abuse of a professional relationship between the offender and the victim, *i.e.*, doctor-patient.
3. Find out where the victimization occurred, *i.e.*, in the professional's offices. Look at circumstances surrounding the relationship between the professional perpetrator and the victim.
4. Be alert to the possibility that victims may have to report violations to professional review boards before they are allowed to file a civil suit. Victims should also be aware that such *reporting requirements* often have time limitations much shorter than the statute of limitations for the underlying civil cause of action. Victims should be referred to the appropriate professional organizations to file a claim, as well as victims' attorneys.
5. Victims of this class of perpetrator have a good chance of collecting from either offenders' professional insurance carriers and/or their private assets.

## MAJOR POINTS ON CAMPUS CRIME

1. Because campus crime has been *covered up* for so long, very few civil cases have been filed based on this class of crimes.
2. The vast majority of campus crime civil cases will fall within the category of third-party litigation. Causes of action against third-party defendants may include:
  - **Failure of Security** - private institutions as landlords;
  - **Cover-ups** - discouraging the victim from reporting the crime; and
  - **Stonewalling** - suggesting to the victim that he or she is responsible for the crime for the following reasons:
    - **Assumption of risk:** such as going to the perpetrator's room; and/or
    - **Contributory negligence,** such as drinking.
3. Victims should not be deterred by **sovereign immunity** -- even public institutions can be sued for failure to protect and negligence in certain cases, *e.g.*, **landlords of dormitories.**
4. Most colleges and universities carry **general liability insurance** which may be tapped to satisfy judgments won by students who have been victimized on campus.

## MAJOR POINTS ON HATE CRIME

1. Filing civil suits based on *hate crimes* is a relatively new phenomenon -- so much so, that very little case law exists on the subject. However, **Federal Civil Rights Acts** have been used for years to provide civil remedies for hate crime victims.
2. Most cases have been brought as civil rights violations based on race, religion, sexual preference, gender, and age for the following injuries:
  - **Assault and Battery;**
  - **Wrongful Death;**
  - **Intentional Infliction of Emotional Distress; and**
  - **Other Violations of Federally Protected Civil Rights.**

## **SUGGESTED CRITERIA TO CONSIDER WHEN SELECTING AN ATTORNEY:**

- ✓ Look for attorneys who have experience handling **personal injury, wrongful death and/or professional malpractice claims** on behalf of plaintiffs. Attorneys who have **experience working with crime victims, i.e., former prosecutorial experience** and attorneys in other civil crime victim cases are preferable.
- ✓ A productive attorney-client relationship is based upon the **ability of both sides to communicate fully and effectively with each other**. Victims should feel comfortable fully disclosing all details and information to their attorney. Attorneys should be able to fully explain all aspects of legal proceedings so that the victims understand. They must be **responsive to victims' needs and requests**.
- ✓ Victims should fully **understand all details of any retainer agreement prior to signing it**. If victims have questions, they may call the **local bar associations about laws and regulations involving contingency fee arrangements, retainers and distribution of profits**.
- ✓ Victims should be clear about what they **expect their attorneys to do**, and attorneys should be clear about what services they are rendering and the **likelihood of obtaining desired results**. For example, the civil attorney may be retained on a **contingency fee basis to sue the perpetrator**, but not retained to handle crime victim compensation claims, accompany clients to criminal court, etc.. These services may be available but may be charged for separately. **Reasonable expectations on both sides can avoid later disappointment and frustration**.
- ✓ Victims should feel free to **consult with several lawyers before selecting one in particular**. Lawyers are professionals, like doctors, and **good consumer practice is to get a second opinion**.
- ✓ Victims should **cooperate, as fully as possible, with their attorneys**, -- such cooperation is **necessary** for successful representation of their interests. Victims have the right to expect their attorneys to be understanding, respectful, and responsive to their needs.

## MAJOR POINTS IN MAKING REFERRALS

1. Make sure you know the needs of the victim -- does the victim have realistic expectations about the civil justice process? Remember, you never want to create unrealistic optimism concerning the possible outcomes of victims civil claims.
2. Make sure you protect yourself from liability by constantly staying alert to the evolving standards governing referrals in your jurisdiction.
3. Always try to get feedback from the victim after you make a referral to find out if he or she was satisfied with the attorney to whom you referred them. This will help ensure that your attorney referral list is effective.
4. Establish a process for getting feedback from attorneys. It is important to make sure you are sending the right types of cases to attorneys. Always try to find out if they are following through on your referrals.
5. Remember, call *COVAC* for referrals if you need help in locating qualified victim litigation attorneys in your area. Don't assume that all civil attorneys know victim litigation. *COVAC* serves as a nationwide referral network and was created to help you and the victims you serve!!!

## CIVIL ATTORNEY REFERRALS SOURCES TO BUILD YOUR NETWORK

### ■ Local:

- City/County Bar Association
- Lawyer Referral Services
- Law Schools
- Young Lawyers Association
- Social Service Agencies
  - ✓ Domestic Violence Shelters
  - ✓ Sexual Assault Centers
  - ✓ Anti-Drunk Driving Groups
  - ✓ Parents of Murdered Children
  - ✓ Other Private Non-profit Groups That Refer to Attorneys..

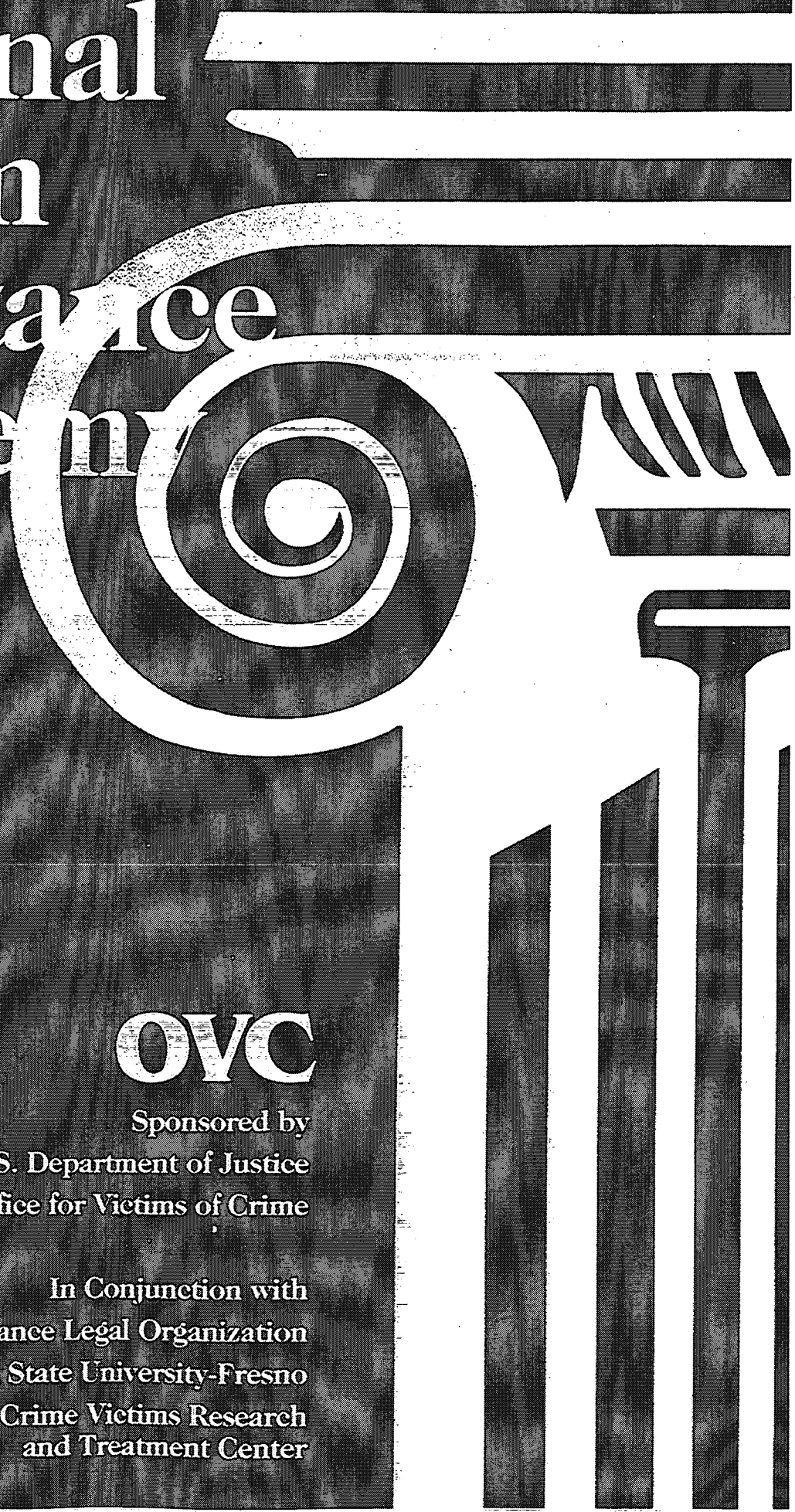
### ■ State:

- Statewide Bar Association (Personal Injury Sections)
- Statewide Trial Lawyers Association (Personal Injury Sections)

### ■ National:

- **COVAC – THE COALITION OF VICTIMS' ATTORNEYS AND CONSULTANTS**
- American Trial Lawyers Association (Personal Injury Section)
- American Bar Association (Personal Injury Section)
- Trial Lawyers for Public Justice
- Other National Organizations Specializing in Women's, Children's and Other Crime Victims' Legal Rights (See National Resource List)

# National Victim Assistance Academy

A large, stylized graphic on the right side of the page depicts a hand holding a torch. The hand is rendered in a simplified, blocky style, and the torch's flame is represented by a series of concentric, swirling lines that resemble a spiral or a stylized flame. The entire graphic is white against a dark, textured background.

**OVC**

Sponsored by  
U.S. Department of Justice  
Office for Victims of Crime

In Conjunction with  
Victims' Assistance Legal Organization  
California State University-Fresno  
National Crime Victims Research  
and Treatment Center





# Department of Justice

FOR IMMEDIATE RELEASE  
FRIDAY, JULY 12, 1996

OVC  
202/307-0703

## SECOND NATIONAL VICTIM SERVICES ACADEMY SLATED FOR JULY 14

WASHINGTON, D.C. -- For the second year, the U.S. Department of Justice's Office for Victims of Crime (OVC) is sponsoring a national victim assistance academy for professionals who help crime victims across the nation. The Academy will provide victim advocates and other professionals with a rigorous course of study emphasizing services and developments and trends in the field of victim assistance, including the role of victims in the criminal justice system.

The week-long Academy -- cosponsored by the Victims' Assistance Legal Organization (VALOR), California State University-Fresno (CSUF) and the National Crime Victims Research and Treatment Center -- will be held simultaneously from July 14 to 19 at CSUF; Washburn University in Topeka, Kansas, and the University of Maryland in College Park.

Academy students represent local, state and federal victim service agencies from over 25 states and the District of Columbia. The 1996 class includes students representing every area of the criminal justice system, service providers in Indian Country, and sexual assault, domestic violence and child victimization specialists. The Academy faculty are experts in victimology, victim services, criminal justice and technology applications to benefit victims.

"A key part of the President's commitment to helping crime victims across the nation is ensuring that those professionals who serve crime victims have the most accurate, current and comprehensive information available," said OVC Director Aileen Adams. "Our Academy students will learn essential skills that can help them serve victims in a sensitive manner and

(MORE)



coordinate victims' rights and services with criminal justice professionals. Perhaps most important, the students can learn from sharing their own personal experiences in responding to crime victims from diverse communities."

The Academy's course of study includes a video link joining the three Academy sites and a state-of-the-art interactive session on how victim service providers can master the information age. Other curriculum subjects include domestic violence, sexual assault, stalking, hate crime, campus crime, white-collar crime, gang violence and drunk driving.

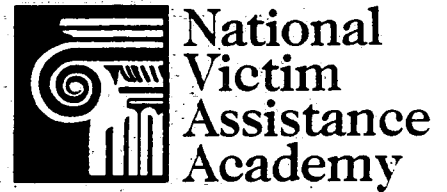
Through a nominations process, a total of 120 students were selected for the Academy based on geographic, cultural and professional diversity. Each site will have 40 students. Students have the opportunity to receive up to three hours of certified academic course credit from California State University-Fresno.

OVC is funding the Academy through a grant from the Crime Victims Fund, created by the Victims of Crime Act (VOCA) of 1984. The Crime Victims Fund receives money entirely from fines, penalty assessments and bond forfeitures -- not from taxpayer dollars.

For additional information about the National Victim Assistance Academy, please contact the Victims' Assistance Legal Organization, 6605 Rosecroft Place, Falls Church, Virginia, 22043. The phone number is 703/538-6898. Media should contact OJP's Office of Congressional and Public Affairs at 202/307-0703.

Information about the Office for Victims of Crime's programs, publications and conferences is available from the OVC Resource Center, Box 6000, Rockville, Maryland, 20857. The toll-free number is 1-800/627-6872 and the OVC World Wide Web site address is <http://www.ncjrs.org/ovchome.htm>.

###



## **Background & Overview of the National Victim Assistance Academy**

The National Victim Assistance Academy is a foundation level course of study in victim assistance and victimology that was developed through a grant from the U.S. Department of Justice Office for Victims of Crime to a coordinated team of co-sponsors: VALOR, the Victims' Assistance Legal Organization, Inc., California State University-Fresno, and the National Crime Victim Research and Treatment Center at the Medical University of South Carolina. This unique collaboration among a non-profit organization and academic institutions has produced a solid foundation for state-of-the-art education and training.

The Academy was first held in the summer of 1995 at the George Washington University in Washington D. C. The 1996 Academy was conducted simultaneously on the campuses of California State University-Fresno, the University of Maryland in College Park, MD, and Washburn University in Topeka, KS. The three Academy classes were linked utilizing state-of-the-art distance learning technology for 20 of the 45 hours. A team of 40 expert faculty in residence and visiting faculty teamed across the three sites to teach the course.

The Academy's 45-hour academic-based, rigorous course curriculum emphasizes foundations in victimology and victims' rights and services, as well as new developments in the field of victim assistance. The course includes lectures and discussions, interactive and experiential exercises, working group assignments, and self examinations. While students have had previous training in their areas of specialization, the Academy focuses on academic instruction and study that is broad-based and includes a range of victim-related topics.

The comprehensive Academy Text was first developed in 1995 and was revised and updated for the 1996 Academy, with new chapters added. Eighteen authors contributed to its development. The Text covers 32 different subject areas and serves as the course curriculum.

Academic credit at both the graduate and undergraduate levels has been offered each year by California State University-Fresno (CSUF) to all Academy students who successfully complete the 45-hour course. The course credit is fully transferrable, as CSUF is a nationally accredited institution of higher learning.

As of 1996, 149 students have completed the Academy representing 47 states. Academy students are selected from a national pool of applications. They are expected to attend the entire program and to participate in laboratory and working group sessions.

All Academy students are awarded a certificate from the U.S. Department of Justice Office for Victims of Crime and the co-sponsoring organizations when they successfully complete the program. An additional certificate of credit is awarded by CSUF to students who elect to receive academic credit.

The National Victim Assistance Academy is a result of the vision, leadership, and support of the U.S. Department of Justice Office for Victims of Crime. Special thanks should be extended to OVC Director Aileen Adams, whose commitment to quality services continue to set a high the standard for the Academy. Federal Project Officer Laura Federline has offered guidance and support every step of the way; her active involvement in the Academy Project assured its comprehensiveness and timeliness.

Tremendous efforts go into planning and implementing the National Victim Assistance Academy. Coordinating the faculty, curriculum content, schedule, and logistics for multiple university sites is accomplished through the efforts of myriad individuals. The Project Team -- comprised of leading experts in victim services and criminal justice from non-profit organizations and academic institutions -- each year contribute countless hours to research, curriculum development, detailed planning, and implementation. In addition, a wide array of experts in our field contribute by writing and editing the Academy Text and teaching at the Academy sites. The broad range and large number of victim advocacy professionals and organizations involved in the Academy are unprecedented, and have served to ensure breadth, depth, and quality.

## **Structure of the Curriculum**

The Academy was developed to be a comprehensive course to establish a foundation of knowledge for a diverse student body. More than 30 topics are taught during the five-day course. The Academy is taught using many instructional methods, including lecture, panel discussion, laboratories, and interactive on-line computer experience.

The course material is presented in sequence, building a foundation of legal theory and victimology. It includes coverage of the operation of the federal and state criminal and civil justice systems and victims' rights, as well as foundations in current research and statistics. Selected specific victim topics are presented in lecture and discussion format. Interactive exercises facilitate application of knowledge in practice. Special topics are presented as electives.

# The Academy Text

The *Text* serves as reference guide for Academy graduates and for faculty and should be used as the basis for topic specific training. Each chapter contains an abstract, learning objectives, and a self exam. Chapters include a current statistical overview of the problem and the legislative framework for understanding the topic, such as significant laws on the federal and state levels. The historical context of each topic is also covered, such as the treatment of the issue by society and the evolution of the issue to its current point. Chapters contain substantive discussion of the topic, and when appropriate, interventions from a victim assistance and criminal justice perspective are presented.

## The 1996 National Victim Assistance Academy

The 1996 National Victim Assistance Academy was conducted simultaneously at three university sites: the University of Maryland, California State University-Fresno, and Washburn University in Topeka, Kansas, during the week of July 14 - 19, 1996. Compressed video technology was utilized to link the sites for approximately 20 hours of the 45-hour course, permitting interaction among the classes, with simultaneous visual image and sound.

### *Students*

One hundred and ten students completed the 1996 Academy. Seventeen Faculty Development Candidates, each with extensive experience in practice and training, also participated. The extent of the involvement of Faculty Development Candidates varied. Five Candidates attended the entire week while others were present for one to three days. The majority were on campus in-residence and participated as mentors and/or facilitated discussions or laboratory exercises. The number at each site varied based upon space limitations and geographic proximity of participants. The University of Maryland was host site for 39 students and seven Candidates; Washburn was host to 35 students and six Candidates; and CSUF hosted 37 students and two Candidates.

### *National Coordination and the Role of Site Coordinators*

Overall coordination of the 1996 Academy was the responsibility of VALOR, with the active involvement of the co-sponsors and Academy Project Team. Activities coordinated at the national level included: development and distribution of the brochure and application; receipt and review of applications; correspondence with applicants and students; selection of sites; identification of Faculty Development Candidates; revision of the *Academy Text* and preparation of overheads to accompany the *Text*; oversight of the printing and shipping of the final *Text* to all sites; development of the three-site coordinated course schedule; selection of nationally recognized expert faculty; identification of distance learning topics and electives; preparation of site

schedules, daily and overall evaluation forms, class lists, faculty lists, and name tags; analysis and reporting of Academy evaluation results; and management of the Academy budget.

Each site also had a Site Coordinator who was responsible for all academic and logistical arrangements on the campus, including: selection of visiting faculty, oversight of the conduct of the academic program and student participation, distribution and collection of evaluations, tending to student and faculty needs, handling emergencies, classroom assignments, meal and housing contracts, making audio-visual arrangements, coordinating compressed video technology and troubleshooting with technical staff. In Maryland, the Academy Project Director served as site coordinator; at CSUF, the Academy Academic Coordinator filled this role with the assistance of Academy Curriculum Coordinator; and, at Washburn, the responsibilities were split between a site Academic Coordinator and a Logistical Site Coordinator.

### *Faculty*

Each site had a "core faculty team" of four professionals in residence and "visiting faculty" who taught one or two sections and generally did not stay on campus. The role of resident faculty was quite extensive and included lecturing, leading group discussions and laboratory exercises, and mentoring students. Daily debriefings to assess the day's activities, gather feedback, and identify areas needing attention were an essential role of resident faculty. Visiting faculty were most often engaged in presenting a course section and/or discussion group.

### *The Academy Curriculum and Text*

The 1996 Academy curriculum was a refinement of the curriculum developed in 1995, with modifications in the course schedule and the addition of new material. The entire *Text* was edited and revised, and two new chapters were added to expand treatment of the federal, Indian, and military justice systems and crisis intervention theory and practice. Changes in the 1996 schedule and curriculum included more pre-Academy reading, increased time for selected "core topics," decreased time for other topics, designation of elective topics, and the introduction of designated study time and faculty mentoring sessions. Even with these revisions, the schedule was rigorous.

All three sites spent approximately half of the course time engaged in site-specific activity with on-site faculty involvement and no distance learning link. This included orientation, laboratory exercises and discussion groups, study/self exam periods, and faculty mentoring group exercises and discussions.

### *Distance Learning*

Approximately half of the course hours involved the use of compressed video linking two or three sites. By controlling the cameras and sound at each site, classes were able to see and hear a lecturer and/or projected overheads from one site while also viewing the class in another site.

Because the Academy was successful in obtaining the involvement of expert faculty from national victim organizations primarily based in the Washington area, there were significant differences between sites in the number of hours that the class received instruction via distance learning, versus on-site instruction. Specifically, of the 40 faculty who taught, 18 were on the Maryland campus; 12 were on the campus of Washburn, and 10 were on the CSUF campus. As a result, the Maryland campus was the sender of the compressed video lecture twice as often as the other two sites (12¼ hours for Maryland; 6½ hours for Washburn; and 5½ hours for CSUF).

### *Evaluating the 1996 Academy*

Written evaluation of every aspect of the National Victim Assistance Academy was an important component of the 1996 Academy Project. Daily Evaluation Forms, assessing each course session in detail, were distributed and collected each day at each site, and Overall Evaluation Forms were collected on the final day of the Academy. The students provided extensive feedback in the form of evaluation ratings and comments and Faculty Development Candidates provided comments and observations.

A review of the evaluation results indicates that the 1996 Academy was an outstanding experience for students. The vast majority of students in all sites gave the Academy an outstanding rating. Students consistently rated key elements of the Academy as outstanding: the quality and diversity of the faculty and the quality and organization of the *Academy Text*. Many students expressed great enthusiasm for the opportunity to have the benefit of instruction from a diverse group of nationally recognized experts, many of whom lectured via compressed video and fielded questions from students in all sites.

### *The Distance Learning Experience*

There can be little doubt that the Academy's first experience with extensive use of compressed video presented challenges; however, the benefit of presenting national experts to all Academy students, regardless of the geographic location of the class, was readily apparent in the evaluation of individual lectures. Highly experienced and well recognized instructors who appeared on compressed video, such as Edwin Meese III, Dr. Dean Kilpatrick, Dr. Marlene Young, Eric Smith, Dr. Barbara Bonner, Dr. Jane Burnley, David Austern, Janice Lord, Anne Seymour, Dr. Mario Gaboury, Skip Sigmon and others, were given outstanding ratings by students in distance learning sites. Comments from students in the remote sites reflect enthusiasm for the opportunity to hear and ask questions of recognized experts and leaders in the victim assistance field; however, frustration with the difficulties experienced in this first attempt at distance learning were also apparent.

In addition, while the class in each Academy site developed a unique identity, based upon the combination of student and faculty personalities and talents, it was quite apparent that the three classes developed a bond and common sense of purpose, and ultimately a common sense of

identity as the **National Victim Assistance Academy Class of 1996**. This was accomplished as the classes shared question and answer sessions with experts, as the site coordinators communicated informally on compressed video between class sessions, and through the interactive session with Aileen Adams, the Director of the Office for Victims of Crime (OVC), who initiated a dialogue with Academy students on the programs and priorities of OVC. The compressed video link served as the tool for ensuring the national focus of the 1996 Academy.

Plans are currently underway for the conduct of the **1997 National Victim Assistance Academy** at four sites across the United States during the third week of July. For more information about this training, please contact:

**Laura Federline**  
**Program Specialist**  
**Office for Victims of Crime**  
**U.S. Department of Justice**  
**633 Indiana Avenue, N.W.**  
**Washington, D.C. 20531**  
**Telephone: (202) 616-3576**

## Faculty Development Training Program

The first NVAA Faculty Development Training Program, a 2½ days intensive and highly interactive training, was conducted December 6-8, 1996 at the Attorney General's Advocacy Institute in Washington, D.C. Twenty-five outstanding professionals in the field of victim assistance who had attended the Academy were selected to participate in the training. The faculty consisted of six members of the Academy Project Team, and a professional adult learning trainer.

Course topics offered at the Faculty Development Training included the following:

- Welcoming Remarks and an Opportunity for Discussion with the Director, Office for Victims of Crime
- Foundations of the National Victim Assistance Academy
- Understanding How Adults Learn
- Assessing your Teaching Style
- Effective Communication Techniques -- Lecture and Short Exercises
- Breakout Sessions -- Intensive Skills Building Laboratories (individual videotape self assessment/group feedback sessions)
- Ensuring Quality in Teaching -- Understanding Research and Evaluation
- Handling Difficult Situations and Audience Interactions
- Stress Management Techniques
- National Resources Available to Expand Teaching Materials
- Distance Learning Technology
- Debriefing

The Training was designed to allow for extensive interaction between the faculty development candidates and members of the core faculty; emphasis was placed upon the principles of adult learning as well as individual training styles.

Participants rated the training as outstanding in their evaluations and many noted the unique opportunity which the training presented for the refinement and learning of tools which could be effectively and practically applied within their respective states and employment situations.



# Content of the National Victim Assistance Academy Text

- Chapter 1:** Scope of Violent Crime & Victimization  
*Dean G. Kilpatrick*
- Chapter 2:** History & Overview of Victims' Movement  
*Steven D. Walker*
- Chapter 3:** Theoretical Perspectives of Victimology and Critical Research  
*Dean G. Kilpatrick and Jane N. Burnley*
- Chapter 4:** History of Law: The Evolution of Victims' Rights  
*Harvey Wallace*
- Chapter 5:** The Role of Federal & State Law: The Judicial System & Victims of Crime  
*Harvey Wallace*
- Chapter 6:** Dynamics of the Criminal Justice System & Current Status of Victims' Rights  
*Mario T. Gaboury, Anne Seymour, and Christine Edmunds*
- Chapter 7:** The Federal, Indian, & Military Justice Systems: Victims' Rights & Assistance  
*Christine Edmunds, Mario T. Gaboury and Anne Seymour*
- Chapter 8:** Civil Lawsuits for Victims of Crime  
*Mario T. Gaboury*
- Chapter 9:** Crime Victim Compensation  
*Dan Eddy and Christine Edmunds*
- Chapter 10:** The Mental Health Impact of Crime: Fundamentals in Counseling & Advocacy  
*Dean G. Kilpatrick*
- Chapter 11:** Crisis Intervention  
*Anne Seymour, Christine Edmunds, and Jane N. Burnley*
- Chapter 12:** Multi-cultural Issues  
*Brian Ogawa*
- Chapter 13:** Domestic Violence  
*Anne Seymour*
- Chapter 14:** Sexual Assault  
*Christine Edmunds*
- Chapter 15:** Child Victimization  
*Ellen Alexander*
- Chapter 16:** Homicide: Its Impact & Consequences  
*Eric Hickey and Carroll Ann Ellis*
- Chapter 17:** Victims of Drunk Driving Crashes  
*Janice Lord and Stephanie Frogge*

**Chapter 18:** Elderly Victims of Crime  
*Ellen Alexander*

**Chapter 19:** The Criminal Justice Continuum *Case Study*  
*Sterling O'Ran*

**Chapter 20:** Mastering the Information Age  
*Skip Sigmon and Anne Seymour*

**Chapter 21:** New Developments/Special Topics

**21.1:** Hate & Bias Crimes  
*Anne Seymour*

**21.2:** Stalking  
*Eric Hickey and Jane N. Burnley*

**21.3:** Workplace Violence: Its Nature & Extent  
*Harvey Wallace*

**21.4:** Juvenile Justice  
*Sterling O'Ran and Anne Seymour*

**21.5:** Restorative Justice  
*Anne Seymour*

**21.6:** Drugs & Victims of Crime  
*Mario T. Gaboury and Anne Seymour*

**21.7:** Gang Violence  
*Jane N. Burnley and Anne Seymour*

**21.8:** Campus Crime  
*Jane N. Burnley*

**21.9:** Federal Crimes: White Collar/Economic Fraud/Bank Robbery  
*Mario T. Gaboury and Christine Edmunds*

**21.10:** Restitution  
*Sterling O'Ran and Morna Murray*

**21.11:** Funding for Crime Victim Services  
*Jane N. Burnley, Anne Seymour, and Eric Smith*

**Chapter 22:** The News Media's Coverage of Crime  
*Anne Seymour*

**Laboratory #1:** Values and Beliefs  
*Christine Edmunds and Jane N. Burnley*

**Laboratory #2:** Crisis Intervention  
*Christine Edmunds*

**Laboratory #3:** Assessing Victim Service Needs  
*Christine Edmunds*

**Editors:** Jane N. Burnley, Christine Edmunds, Mario T. Gaboury, and Anne Seymour

# The Co-Sponsoring Organizations and Institutions of the National Victim Assistance Academy

## *The Office for Victims of Crime*

The Office for Victims of Crime (OVC) is one of five agencies within the Office of Justice Programs, U.S. Department of Justice. Since it was established in 1983, OVC has served as America's chief advocate for all issues affecting our nation's crime victims. This role translates into a broad offering of programs and activities designed to help crime victims cope with the personal and financial devastation resulting from victimization.

OVC plays a pivotal leadership role in the victims' movement. With the enactment of and subsequent amendments to the *Victims of Crime Act (VOCA)* of 1984, OVC was given responsibility for administering the Crime Victims Fund, the primary financial resource for all federally supported victim programs. The Office supplements, reinforces and encourages an expansion of state compensation and assistance programs throughout the country. OVC also awards grants to sponsor high quality training and technical assistance on cutting edge substantive issues of interest to victim advocates, as well as to criminal justice system personnel who regularly interface with victims. OVC's leadership at the federal level also encompasses activities designed to draw public attention to crime victims' needs and to promote victims' rights through legislation and public policy.

## **VALOR**

VALOR, the Victims' Assistance Legal Organization, Inc., (VALOR) was founded in 1979 by the late Frank Carrington as a national organization dedicated to promoting the rights of victims of crime in the civil and criminal justice systems. With support from foundations, individuals and government grants and contracts, VALOR accomplishes its mission through: promoting public education and awareness about the rights and needs of crime victims; advancing public policy reforms on the federal, state and local levels; and improving services to assist crime victims in their emotional, financial and physical recovery through education and training programs

VALOR's recent activities include: administration of the 1995 and 1996 National Victim Assistance Academy; developing OVC's 1995, 1996, and 1997 *National Crime Victims Rights Week Resource Guide*; conducting the OVC-sponsored Restitution Reform Project; and providing leadership on criminal justice system reforms in the areas of sentencing, parole, child abuse, and juvenile justice.

## *California State University-Fresno*

California State University-Fresno (CSUF) is the lead Academic institution for the Academy and provides elective undergraduate and graduate credit for Academy students in all sites. The on-campus sponsor for the Academy is the Department of Criminology, which has a long history of leadership in university-based crime victim related education. CSUF was the first University in the nation to develop and conduct a program of study in victim services. Started in 1985, today it is the only University in the nation that offers an undergraduate degree in victimology, a graduate degree with a specialization in victimology, and a month-long summer institute on victim services.

The Justice Center at CSUF is also actively involved in victims' issues including research on various forms of domestic violence with the California District Attorneys Association. CSUF is the lead campus with the California State University and University of California Systems for the development of a Joint Doctorate Degree in Criminology with an emphasis in Victimology. It is anticipated that this will be the first Ph.D. program of Victimology in the nation. The University established an important precedent by providing academic credit for the OVC- sponsored Civil Remedies Training Series in 1992 and 1993.

## *National Crime Victim Research and Treatment Center, Medical University of South Carolina*

The National Crime Victim Research and Treatment Center (CVC) is a division of the Department of Psychiatry and Behavioral Sciences at the Medical University of South Carolina in Charleston, South Carolina. Since 1974, CVC has been devoted to developing a better understanding of the impact of criminal victimization on adults, children, and their families. Program activities include: research; professional education; clinical service; and public policy consultation at the local, state and federal levels. The faculty members of the CVC are widely regarded as leaders in scientific research on the consequences of crime and victimization and as experts in assessment and treatment of crime-related psychological trauma.



#### action

ber of women veterans experienced sexual trauma while serving on active military duty. Some of these women have sought counseling and treatment for their sexual trauma, but women have never discussed it with anyone. We are very uncomfortable talking about it now, but we wonder if they can, or if it would matter. These women know that they have "not felt the same" since it occurred.

Unfortunately, this is a very common reaction to sexual trauma. Many events are never reported. There are reasons for this silence, many of them are misconceptions about women who have experienced sexual trauma. Nearly one-third of all victims develop Post Traumatic Stress Disorder (PTSD) sometime during their lifetime. Symptoms are often accompanied by physical problems and generally "not feeling well."

Department of Veterans Affairs (VA) health care professionals are sensitive to the experience of sexual trauma and the impact it can have on a woman's physical and emotional health. They understand the feelings of fear, anxiety, shame, and embarrassment that individuals who experience sexual trauma can have when they try to talk about it. VA health care professionals can help women who are coping with sexual trauma to rebuild their confidence, self-esteem, and quality of life. VA provides confidential, priority counseling and treatment for sexual trauma to eligible women.

#### Q. What is the Women Veterans Health Programs Act of 1992, as amended by the Veterans Health Programs Extension Act of 1994?

A. Public Law 102-585, Veterans Health Care Act of 1992, Title I - Women Veterans Health Programs, as amended by Public Law 103-452, Veterans Health Programs Extension Act of 1994, established programs to improve health care services for veterans, including priority counseling and treatment for sexual trauma for eligible veterans.

#### Q. Who is eligible for counseling and treatment for sexual trauma under the Women Veterans Health Programs Act of 1992, as amended by the Veterans Health Programs Extension Act of 1994?

A. VA may provide counseling and treatment to veterans who VA determines require such counseling, care and services to overcome sexual trauma. The trauma may result from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while serving on active military duty. Public Law 102-585, defines sexual harassment as repeated, unsolicited verbal or physical contact of a sexual nature which is threatening in character.

#### Q. How long does VA have authority to provide counseling and treatment for sexual trauma under the Women Veterans Health Programs Act of 1992, as amended by the Veterans Health Programs Extension Act of 1994?

A. Currently VA may provide counseling and treatment for sexual trauma through December 31, 1998.

#### Q. Is a woman veteran eligible to receive care for sexual trauma, although it was never reported when it occurred?

A. Yes. To be eligible to receive counseling and treatment for sexual trauma from VA, there is no requirement that a woman veteran must have reported the sexual trauma when it occurred or at any time during her active military service.

#### Q. Where can a woman veteran receive care or more information regarding the VA sexual trauma services?

A. A woman veteran seeking counseling and treatment for sexual trauma should contact the Women Veterans Coordinator at the nearest VA medical center or vet center for assistance. The telephone number for the medical center or vet center can be found in the telephone directory under "U.S. Government" listings. The toll-free telephone assistance number is 1 (800) 827-1000.

#### Q. What is disability compensation and who is eligible for this benefit?


A. Veterans who are disabled by injury or disease incurred or aggravated during active service in the line of duty during wartime or peacetime service and discharged or separated under other than dishonorable conditions are eligible for monthly payments from VA. The amount of these payments, called disability compensation, is based on the degree of disability. Disabilities are rated from zero to 100 percent disabling, in increments of 10 percent. If there are two or more disabilities, the individual percentages of each are used to determine a combined disability evaluation. Compensation is not payable at the zero percent level.

#### Q. Can a woman veteran who experienced sexual trauma while serving on active duty qualify for disability compensation?

A. VA may pay compensation to a woman veteran for disabilities incurred or aggravated in the line of duty, including disabilities or injuries resulting from sexual trauma. A Veterans Benefits Counselor (VBC) at a VA medical center or regional office can explain the compensation program in greater detail and assist in filing a claim. Information may also be obtained by calling 1-800-827-1000, and speaking with a VBC at the nearest VA regional office.

#### Q. Does a woman veteran who experienced sexual trauma while serving on active duty automatically qualify for disability compensation?

A. No. As stated above, payment of compensation is based on the degree of the service connected disability or disabilities. VA must first determine whether there are current disabilities related to military service. If disabilities are deemed service related, VA then evaluates the degree of disability, which determines the amount of compensation payable. Once again, compensation is not payable for a zero percent evaluation. A woman who has experienced sexual trauma may or may not have residual disability which can be deemed service connected, or may exhibit residuals which are not compensable (i.e., evaluated at the zero percent level).




*es sexual trauma have an impact on the mental and physical health of the victim?*

ving been the victim of rape appears to significantly impact on the overall health of the victim. According to the 1988 report, "Rape in America," nearly one-third (31%) of all rape victims develop Post Traumatic Stress Disorder (PTSD) sometime during their lifetime.

ditionally, researchers are beginning to notice a relationship between PTSD symptoms and an increase in physical health problems and reports "not feeling well."

*What is Post Traumatic Stress Disorder (PTSD)?*

Post Traumatic Stress Disorder is a recurrent emotional reaction to a terrifying, uncontrollable life-threatening event. The symptoms frequently develop after a person's sense of safety and security is violated. Individuals with PTSD experience a variety of symptoms that can impede their daily lives. These may include sleep disturbances, nightmares, emotional instability, feelings of fear and anxiety around seemingly non-threatening situations, impaired concentration, and increased stress or problems in intimate and other interpersonal relationships. These reactions are common after a trauma and are part of the initial adjustment process.



*Q. I have never discussed my trauma with anyone now, and I am very frightened about talking about it. What can I do about this fear?*

A. Unfortunately, this is a very common fear of women who have experienced sexual trauma. In fact, it is estimated that only sixteen percent of the rapes that occur in this country are ever officially reported. Many of the reasons for this silence are based on society's stereotypes of women who have experienced sexual trauma. It is important to remember that health care professionals have become increasingly sensitized to the experience of sexual trauma and the impact it can have on you. As a result, they are much more able to respond to the fears and anxieties you are experiencing. They will also understand the difficulty you have in discussing them with another person and will be able to help you express yourself in a way that is most comfortable for you.



**The Women Veterans Health Programs include:**

- Priority outpatient counseling and treatment for sexual trauma;
- Education and counseling on the normal and expected responses to sexual trauma;
- Assessment of the specific problem(s);
- Treatment to assist with restoring physical and emotional health;
- Information and referrals for services and benefits available.

**For more information:**

We welcome inquiries about the Women Veterans Health Programs, including VA counseling and treatment for sexual trauma. To find out more about the VA health care services for women veterans, contact the Women Veterans Coordinator at your nearest VA medical center or your nearest VA vet center or VA regional office.



You can get more information by calling 1-800-827-1000 or by contacting the VA regional office, medical center or vet center near you.

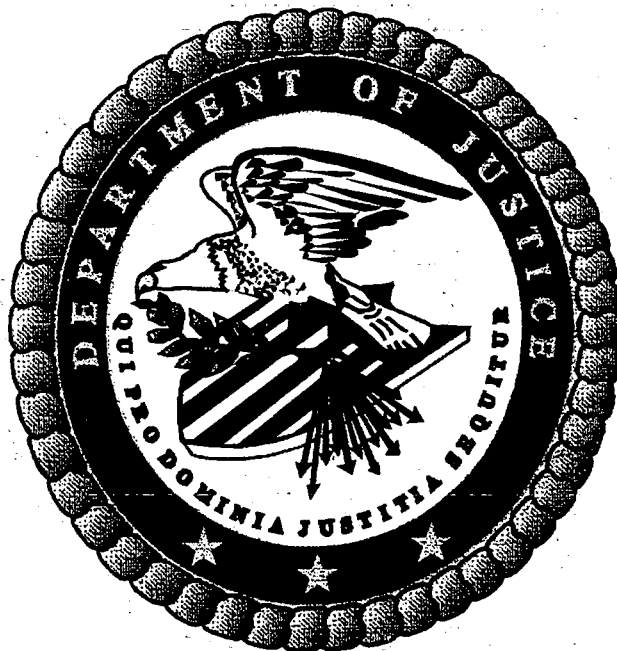


# Women Veterans Health Programs

## Counseling and Treatment for Sexual Trauma

# OFFICE FOR VICTIMS OF CRIME

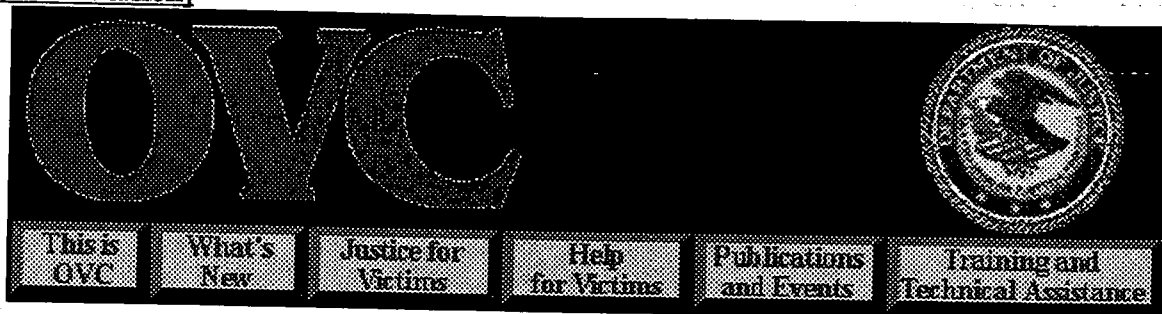
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**under construction**



<http://www.ojp.usdoj.gov/ovc/>

**To be released**  
**February 1996**



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## *Advocating for the Fair Treatment of Crime Victims*



**Aileen Adams, Director** -  [Welcome Message \(350 KB\)](#) | [Tour of OVC \(350 KB\)](#)

The Office for Victims of Crime (OVC) is one of five agencies within the Office of Justice Programs, U.S. Department of Justice. Since it was established in 1985 by statute, OVC has served as the Federal government's focal point for all issues affecting our Nation's crime victims. This role translates into a broad offering of programs and activities designed to help crime victims cope with personal and financial devastation resulting from victimization.

The button bar located at the top of the page identifies six categories of information:

- This is OVC**: information about the office, its structure, funding, legislative history, and program activities;
- What's New**: information on new publications, views from the field, recent focus group meeting outcomes, proposed program and funding guidelines, and recent programs funded by OVC;
- Justice for Victims**: information on the latest laws, proposed legislation, protocols/policies/procedures, and text of significant publications.
- Help for Victims**: information, by state, about available services, contact numbers, national hotline numbers, links to other resources, and sample victim impact statements.
- Publications and Events**: identifies publications and products available from the OVC Resource Center, and contains a map depicting conferences, meetings, and focus groups sponsored by OVC.
- Training and Technical Assistance**: list OVC training and technical assistance opportunities, including a map to guide you in locating activities in your state or in other place across the United States.

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# This is the Office for Victims of Crime

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Compensation for Victims of Crime  
Topics

- ★ Article 139, UCMJ property claims
- ★ Restitution from offender
- ★ Transitional compensation program
- ★ Payment to abused spouses
- ★ Foreign Claims Act
- ★ Compensation from state where crime occurred



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ARTICLE 139 CLAIMS

Victim-Witness Assistance Program

- ARMY - AR 27-20, Chapter 9
- NAVY - JAGMAN, Chapter 4
- AIR FORCE - AFI 51-502, Chapter 6

3

STATUTORY AUTHORITY

10 U.S.C. 939

★ Whenever complaint is made to any commanding officer that *willful damage* has been done to the property of any person or that his property has been *wrongfully taken* by members of the armed forces, he may, under such regulations as the Secretary concerned may prescribe, convene a board to investigate the complaint

4

CLAIMS COGNIZABLE

Willfully damaged

- ★ Inflicted intentionally, knowingly, and purposefully without justifiable excuse
- ★ *Not* caused inadvertently or thoughtlessly through simple or gross negligence
- ★ *may include:*
- ★ riotous, violent or disorderly conduct
- ★ acts of depredation
- ★ reckless or wanton disregard of property rights

5

CLAIMS COGNIZABLE

Wrongfully Taken

- ★ Unauthorized taking or withholding
- ★ Intent to temporarily or permanently deprive owner
- ★ *Not* involving breach of contractual or fiduciary relationship
- ★ *May include* damage, loss or destruction by:
- ★ larceny
- ★ forgery
- ★ embezzlement
- ★ fraud
- ★ misappropriation

6



## CLAIMS NOT COGNIZABLE

- ★ Personal injury or death
- ★ Resulting from negligent acts
- ★ Subrogated claims, including insurers
- ★ Arising from private indebtedness
- ★ Involving government property
- ★ Resulting from acts or omissions within the scope of official duties

7

## LIMITATIONS

- ★ Time - Within 90 days of incident (exception if good cause shown)
- ★ Amount - Up to \$5,000.00 at SPCMCA  
Over \$5,000.00 at higher HQs
- ★ Direct damages *only* - not indirect, remote or consequential
- ★ Comparative responsibility - if owner's action was proximate contributing factor

8

## PRESENTING A CLAIM

- ★ By claimant or authorized agent
- ★ Initially may complain orally or in writing
- ★ Must be reduced to writing for sum certain
- ★ Sufficient facts and circumstances
- ★ To commander of alleged offender
- ★ Unsure of offender's organization or unknown offender = to nearest installation

9

## ACTION UPON RECEIPT

- ★ Wrong command, forward to correct one
- ★ Not a SPCMCA, forward up to SPCMCA
- ★ More than one unit involved, SPCMCA nearest situs of incident will be designated
- ★ Offender of another service, forward to correct service
- ★ SPCMCA appoints board to investigate

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## ACTION BY BOARD

- ★ Notification to offender
- ★ Opportunity for voluntary restitution
- ★ Inquire into surrounding circumstances
- ★ Determine validity of claim
- ★ Identify offender(s)
- ★ Determine liability and damages
- ★ Recommend amount to be assessed

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## LEGAL REVIEW

- ★ May return for further investigation or correction if irregularities or discrepancies
- ★ Is claim cognizable?
- ★ Are findings & recommendations supported by preponderance of the evidence?
- ★ Substantial compliance with Article 139 & regulation?
- ★ Should claim be denied?

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**COMMANDER ACTION**

- ★ Approve or disapprove claim
- ★ Set amount to be assessed (equal to or less than board recommendation)
- ★ Direct finance/dispersing officer to withhold offender's pay and pay claimant
- ★ Notify offender of action taken
- ★ Action is conclusive

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**RECONSIDERATION**

- ★ Request for reconsideration
  - ✦ by claimant or offender
  - ✦ approving authority or successor in command
  - ✦ Should modify action only on the basis of: fraud, newly discovered evidence, errors in calculation, or mistake of law
- ★ No remission of indebtedness
- ★ Disciplinary action not determinative

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**CLAIMS COGNIZABLE***Willfully damaged*

- ★ Inflicted intentionally, knowingly, and purposefully without justifiable excuse
- ★ Not caused inadvertently or thoughtlessly through simple or gross negligence

15

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- ★ SPCMCA appoints board to investigate

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### RESTITUTION & SUPPORT

- ★ Restitution from Accused Encouraged-
  - ✦ Pretrial Agreements
  - ✦ Condition of Clemency or Parole
- ★ Mandatory Forfeiture of Pay (Article 58)
  - ✦ Total Forfeitures if Confined for 6 Months, or
  - ✦ Confinement and DD, BCD, or Dismissal
- ★ Convening authority may defer forfeitures for 6 months & direct payment to family

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### Transitional Compensation

- ★ DoD Instruction 1342.24
- ★ Available if:
  - ✦ Member on active duty for more than 30 days &
  - ✦ Court-martial conviction for abuse of family member(s), and CA's action includes approval of punitive discharge, or
  - ✦ Administrative separation for abuse of family member(s)

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### Transitional Compensation Procedures

- ★ Payment to spouse, unless
  - ✦ Remarried
  - ✦ Active participant
  - ✦ Cohabitation
- ★ If spouse ineligible, to dependent spouse
- ★ If dependent is under 18, to guardian
- ★ Apply using DD Form 2698

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### Transitional Compensation Payments

- ★ Commence on date separation approved
- ★ Payments for 36 months (unless service commitment is less than 12 months)
- ★ Payments based on DIC rates
- ★ Payments terminate if:
  - ✦ Sentence or separation is disapproved
  - ✦ Spouse remarries, cohabitates or is active participant

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### Transition Compensation Other Benefits

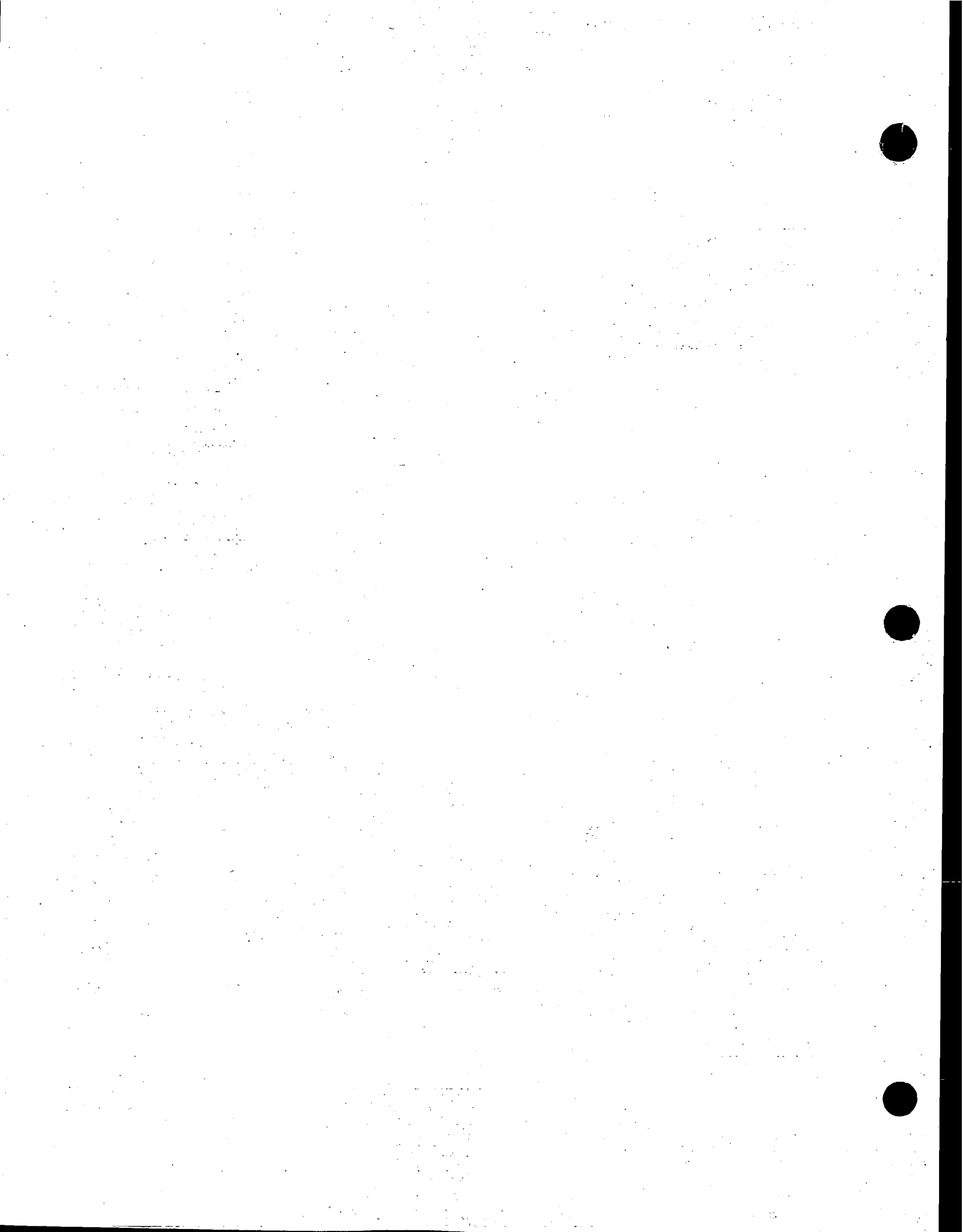
- ★ *Recipients entitled to commissary and exchange*
- ★ Medical or dental care for injury resulting from abuse if Secretary approves

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**Compensation for Victims of Crime  
Conclusion**

- \*Article 139 UCMJ property claims
- \*Restitution from offender
- \*Transitional compensation program
- \*Payment to abused spouses
- \*Foreign Claims Act
- \*Compensation from state where crime occurred





**National  
Victim Center**

Victim advocacy and resource center  
founded in honor of Sunny von Bulow

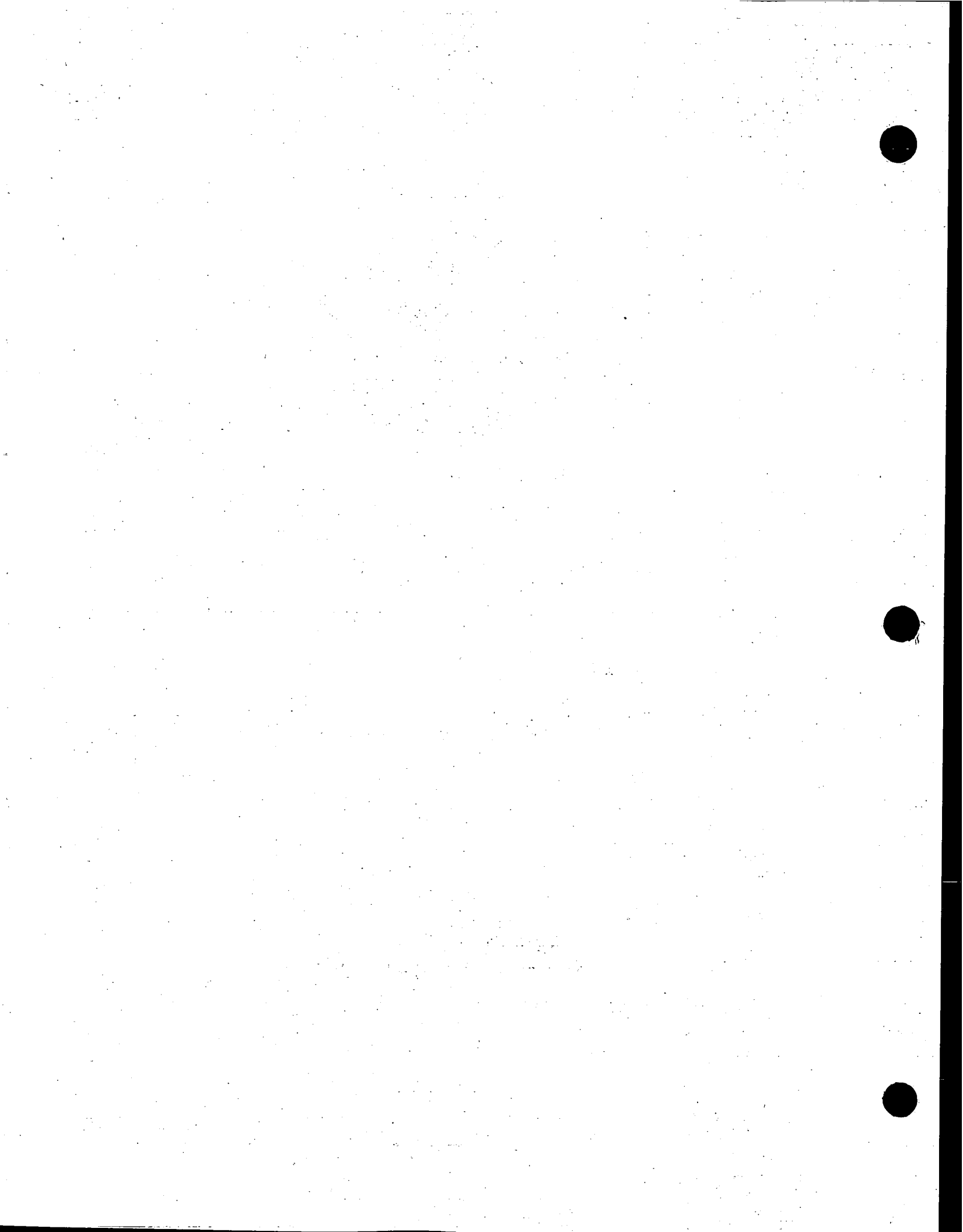
2111 Wilson Boulevard  
Suite 300  
Arlington, VA 22201  
Tel. 703 / 276 2880  
Fax 703 / 276 2889

## **WORKPLACE VIOLENCE: CONSEQUENCES AND EFFECTIVE RESPONSE**

National Organization for Victim Assistance  
National Symposium on Victims of Federal Crime  
February 10-14, 1997  
Washington, DC

**PRESENTED BY  
TRUDY M. GREGORIE  
DIRECTOR, VICTIM SERVICES AND PROGRAM DEVELOPMENT**





Workplace Violence -- Employee Information

Overview

Violence in America is now invading the workplace, putting at risk the safety, productivity and health of American workers, and this violence appears to be on the increase. Research clearly shows a significant increase in the amount of violence and conflict in the workplace in recent years. In 1992, the Centers for Disease Control declared workplace homicide a serious public health epidemic requiring priority attention by policy makers.<sup>1</sup> Having tripled in the last decade, workplace homicide is the fastest-growing form of murder in the United States<sup>2</sup> and is the leading cause of workplace death for women.<sup>3</sup> In fact, murder and other violent crimes have escalated in the workplace to the point that the U.S. Department of Justice recently proclaimed the workplace the most dangerous place to be in America.<sup>4</sup>

According to the latest Bureau of Justice Statistics' annual crime survey, nearly 1 million individuals become victims of violent crime in U.S. workplaces each year. An estimated 8% of rapes, 7% of robberies, and 16% of all assaults occurred while victims were working or on duty. Overall, one out of every six violent crimes experienced by U.S. residents age 12 or older happens at work. Over 30% of victims who were working during a violent victimization faced armed offenders.<sup>5</sup> Recent studies by Northwestern National Life Insurance and the National Institute for Occupational Safety and Health have identified that the chances are one in four that a worker may be attacked, threatened or harassed on the job in the next year.<sup>6</sup>

Six out of ten incidents of workplace violence occur in private companies.<sup>7</sup> These incidents cost companies \$4.2 billion in lost work and legal expenses in 1992, according to the National Safe Workplace Institute. The Institute calculates that the average cost to employers of a single episode of

workplace violence can amount to \$250,000 in lost work time and legal expenses.<sup>8</sup>

For employees, crime victimizations occurring in the workplace cost about half a million workers 1,751,100 days of work each year, an average of 3.5 days per crime. This missed work resulted in over \$55 million in lost wages annually, not including days covered by sick and annual leave.<sup>9</sup>

As the number of total work-related fatalities including accidents has declined over the past decade, intentional killings in the workplace have gained prominence. The Bureau of Labor Statistics census counted 1,063 work-related homicides in 1993.<sup>10</sup> Over 80% of these homicide victims died as a result of gunshot wounds.<sup>11</sup> Many of those murdered at work (24%) were either self-employed or working in the family business.<sup>12</sup> James Fox, a Northeastern University criminologist who tracks workplace violence throughout the country, says the number of workers killing their bosses has doubled in the past ten years.<sup>13</sup>

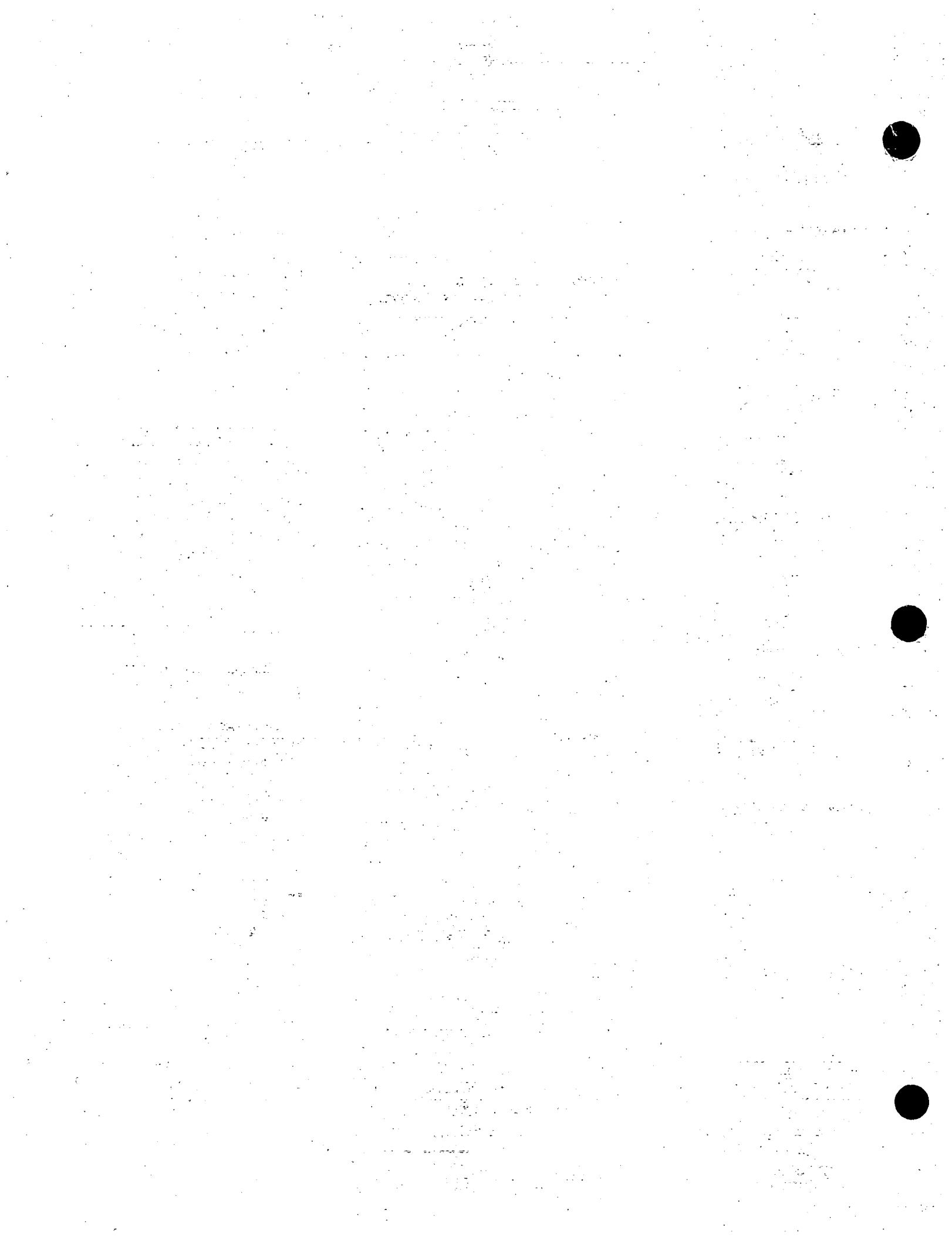
Homicide was the leading manner of fatal injury for female workers, accounting for 40% of the fatal occupational injuries to women. Blacks, Asians and Pacific Islanders, and Hispanics incurred a disproportionate share of workplace homicides, compared with their share of total workplace fatalities and their employment share. Immigrants to the U.S. also had a high risk of homicide at work. This group comprised 25% of the workplace homicide victims, but only about 9% of the employed.<sup>14</sup>

While homicides at work occurred in a wide variety of occupations, a few stood out. Nearly half of the homicides occurring at work were in retail trade, primarily in food stores--including convenience stores, restaurants, drinking establishments, and gasoline service stations. One-sixth of the homicides occurred in service-related industries, including guard and armored car

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services, hotels and motels, and health and educational services. Taxicab companies and police protection were other industries affected by homicides.<sup>15</sup>

While workplace homicides due to disputes between co-workers, clients, or spouses usually make national news, the majority of homicides that occur at work are committed during a robbery or robbery attempt. Robberies frequently occur while workers were locking up at night or making money drops or pickups. Workplace homicides typically occur at night, between 7pm and 2am. A small number of workers were mugged and murdered while at work, on travel, or while leaving their work premises.<sup>16</sup>

Indeed, workplace violence has now become a virtual reality for *any* business and *any* employee--giving us a vulnerability that was never felt before. It has become a necessity that the reality and risks of this growing violence be examined, and a hard look given to what can be done by employers, management and employees in the area of prevention, as well as assistance and support to the ever-increasing number of workplace violence victims.

What's making the job a more dangerous place? Experts say many factors, including economic, social and psychological, boost office violence. Though violence by disgruntled ex-workers tends to grab headlines, it's not the most prevalent kind according to the Northwestern Life Study. Most attackers and harassers are people that victims deal with on a daily basis. Customers, clients and patients account for the largest segment of attackers (44%), while co-workers and bosses account for 86% of all harassment at work, one-third of threats and one-fourth of workplace attacks. Sometimes, the violence is caused by a stranger, as in the case of

robberies. Interpersonal conflict is considered the main reason for harassment; irrational behavior is likely a cause of attacks.<sup>17</sup>

Although men who are victimized while working are more likely to be attacked by a stranger, women are more likely to be attacked by someone known to them. Five percent of the women victimized at work are attacked by a husband, ex-husband, boyfriend, or ex-boyfriend.<sup>18</sup> One-sixth of workplace homicides of women are committed by a spouse, ex-spouse, boyfriend or ex-boyfriend.<sup>19</sup> For every murder, there are numerous rapes and assaults that often leave victims battered and disabled.<sup>20</sup> According to the U.S. Department of Justice, boyfriends and husbands, current and former, commit more than 13,000 acts of violence against women in the workplace every year.<sup>21</sup>

Domestic violence is a problem that does not disappear when women leave home and enter the workplace. Perpetrators come to the workplace searching for the intended victim because they are often barred, through legal injunctions or restraining orders, from going to the victim's home. Victims' addresses and telephone numbers easily can be changed--but not necessarily employment. Victims often are sought out at their places of employment and attacked or killed.

A recent survey of security directors at corporations nationwide revealed that more than 90% of those surveyed were aware of more than three incidents in which men stalked women employees, and 94% said that domestic violence is a "high" security problem at their companies. "The insidious epidemic of domestic violence is now in the workplace," says Joseph Kinney, executive director of the National Safe Workplace Institute, which conducted the survey of security directors. "We are seeing

that violence is often lethal and that the workplace can be the scene of the killing."<sup>22</sup>

The traditionally dangerous types of work such as police work, bar staff, social workers, firefighters, bank tellers and others are not the only work groups at risk. Incidents of workplace violence are growing with frightening regularity, and these incidents are dispelling the common belief: "It can't happen here." Unfortunately, it can and does happen anywhere, anytime--in large industries, in small businesses, in major cities, in small towns, in hospitals, even on college campuses and in our neighborhood schools.

Violence in America's schools has increased dramatically over the past decade and continues to escalate. In a 1987 survey, "Public School Teachers' Perspectives on School Discipline," it was revealed that 20% of the teachers polled indicated that they had been threatened with violence by students. Nearly 5200 of the nation's million secondary school teachers are physically attacked at school each month, according to a National Institute of Education study. About 1000 are hurt seriously enough to require medical attention. Theft is reported by 130,000 teachers in a month's time. Having something taken from them by force, weapons or threats, is reported by 6000 teachers. The Center to Prevent Handgun Violence reported that 65 students were killed, 186 wounded, six school employees died, and 15 were injured during the four academic years of 1986 through 1990.<sup>23</sup>

In a 1989 study of violence in hospitals, surveying 300 hospitals across the country, it was found that there was a sharp upswing in assaults in hospitals and that half of them took place in emergency rooms. In a 1991 study of 1200 emergency room nurses, two out of three reported that during

their careers, they had been assaulted.<sup>24</sup> It is the nursing staff of hospitals that spend the greatest amount of time involved in direct patient care, and they experience violence on a routine basis. A variety of studies demonstrate that up to 50% of practicing clinical workers, including social workers, psychologists, and psychiatrists, have been assaulted at some time in their professional career. These assaults occur in a wide range of clinical settings and the incidence appears to be increasing.<sup>25</sup>

Unfortunately, violence can happen at even the most tranquil nonprofit. Nonprofit employees and volunteers have been assaulted while working in churches, hospitals, museums, homeless shelters, on the playing fields of various sports, and in many other situations.<sup>26</sup>

The Occupational Safety and Health Act of 1970 was enacted "to assure so far as possible every working man and woman in the nation safe and healthful working conditions."<sup>27</sup> Through simple measures, employers can minimize violence and its kin, harassment. By doing so, they will avoid harm to their employees and the great cost of these problems to their businesses. Workplace violence can sometimes be anticipated and possibly deterred. With proper preparation and training of employees, and implementation of strict protocol, workplaces can become safer places.

Workers who have been interviewed following their workplace victimizations have strongly advised that all workers, supervisors and management need to acknowledge the problem of workplace violence, advocate for safe work environments, and train workers in precautionary measures and what to expect if they do become victims.<sup>28</sup>

## Victim Impact and Emotional Consequences

Whenever a violent incident occurs in the workplace, there exists great potential for physical, psychological and financial impact. In the aftermath of the violence, the survivors, including those who were injured, those who were targeted but missed, witnesses, co-workers, family members, friends and other people in the organization, can be emotionally devastated. For the survivors and their co-workers, the workplace is no longer a safe place for it has now become a threatening environment.

When workplace violence occurs, there is always a concern about the possibility of a re-occurrence. The more meaningless and arbitrary the incident, the more vulnerable and unsafe the survivors seem to feel. The moments that immediately follow a traumatic incident of workplace violence, are characterized by shock, a sense of disbelief and physical-psychological numbing. Many survivors of traumatic events report that they are very tired, and have difficulty concentrating and remembering important information.<sup>29</sup> This can affect a person's entire life, including relationships with family as well as the ability to work and carry out everyday activities.

There are a number of things that can affect the degree of psychological trauma experienced as a result of violence in the workplace. Some of these factors include the victim's age, family support, experience in similar experiences, whether they have survived other stressful situations and the number of these situations in their lives, as well as their perception of the incident. The everyday coping skills a worker has developed to deal with life's stressors will probably be inadequate to deal with the possibly

life-disrupting changes and emotional reactions they experience workplace violence. Most survivors will not be able to just put it behind them and get on with their lives. The victimization and its consequences are things they must deal with but there are things they can do, things others can do, and programs in place that can help. Victims of workplace violence are not alone.

**Consequences.** There are three general types of post-traumatic consequences that survivors experience in the hours and days following work-related traumatic incidents:

*Re-experiencing consequences* include feeling as if the incident is happening again, constant and intrusive thoughts about the event, fear or anxiety and concern about another or similar incident happening, and nightmares.

*Withdrawal consequences* include attempts not to think about or to avoid emotions connected to the incident. These attempts can include overworking or not coming back to work, depression, avoidance of reminders of the incident, withdrawal from family and friends, and possibly, self-medicating with alcohol or drugs.

*Other consequences* include such things as anger, irritability, sleep problems, difficulty concentrating and an exaggerated startle response.<sup>30</sup>

Long-term problems can develop if post-traumatic consequences are not managed. With immediate and effective responses to work-related trauma, most of these long-term problems can be prevented, and the workers and organization can resume normal activities. The overall goals for victims of workplace violence in dealing with their emotional reaction to the traumatic event are the decrease of distressing symptoms, and enhancement of emotional expression.

and the assimilation of the traumatic experience.<sup>31</sup> The process of resolution can be facilitated by family and friends who acknowledge the trauma, allow the individual to talk about it, and accept the uneven road to resolution.

Detailed discussion of the incident with others is an important element of post-traumatic recovery. *Debriefings* are group meetings designed to reduce the probability that organization personnel exposed to a traumatic incident will experience long-term consequences by providing the opportunity to discuss experiences and feelings during and after the incident. For maximum effectiveness, the debriefing should occur two to five days after the incident.<sup>32</sup> A small percentage of personnel exposed to workplace violence require more assistance than is provided by debriefings and peer or family support. Such post-trauma counseling is short-term, generally 3-5 sessions and specifically focuses on the traumatic incident.

Crime victim counselors can be found in many communities. Make sure any counselor you access is trained and experienced in working with crime victims. Contact your Employee Assistance Program, local victim assistance programs or mental health associations for referrals. For the families of homicide victims, grief assistance programs offer support and counseling. Such programs may be private or publicly-funded, and operate out of mental health clinics, prosecutors' offices, or medical examiners' offices. There are also homicide survivor support groups that can be accessed in many communities. Community services and resources are available for victims, as well as advocacy services, which are especially vital to domestic violence and stalking victims.

The reaction, support and assistance offered by management and those around them are very important to survivors of workplace violence. Secondary victimization occurs when employers, managers, employees or those engaged by an organization respond in one of the following ways:

- **Disbelief and denial:** The incident's description or details provided by the victim(s) are not believed;
- **Discounting:** The magnitude of the incident and its results are poorly understood or minimized;
- **Blaming the victim:** Responsibility for the incident is attributed to the victim(s);
- **Stigmatization:** A judgement concerning the psychological consequences for a victim of a traumatic event, i.e., ridicule for experiencing symptoms or a belief that symptoms result from predisposing factors, malingering, for attention or sympathy, etc.; and
- **Denial of assistance:** Necessary services are denied because they are perceived as unwarranted, undeserved or unnecessary.<sup>33</sup>

## Employer Responsibilities and Legal Duties

Policies and procedures are required to effectively handle the problem of workplace violence. Current estimates are that over half of all victimizations sustained at work are not reported to police.<sup>34</sup> When no system is in place, many employees will not bring concerns or fears to management. Employers must create an atmosphere where workers are encouraged to report threats if they occur. Too often in the past, employers have ignored threats and violence has occurred, often with fatal results. Employers

have a legal duty under the negligent retention doctrine to heed notice of threats and harassment that occur within the workplace and adequately respond to its employees' complaints and warnings about potentially dangerous employees.<sup>35</sup>

A vital part of any workplace violence prevention plan, according to all experts, is the development of guidelines for workers to report either actual violent incidents or suspected trouble. The guidelines stipulate that supervisors should be employees' first contact. If the incident requires further action or investigation, the chain of involvement is usually human resources, the legal department and then security.<sup>36</sup> If neither management nor security respond to an employee's report, the employee should also report any incident or threat of violence to the local law enforcement authorities.

Employers are required by law to provide adequate security. Many court actions have raised questions of negligent security practices as well as the removal of potential hazards.<sup>37</sup> Administrative controls such as requiring that employees not work alone, and conflict resolution training are suggested. This is geared toward controlling violence from customers and clients, but can include disgruntled fellow employees—especially when layoffs or terminations occur.

When an employee is attacked or killed on the job, it is emotionally devastating, not only to the victim and their survivors, but to everyone in the workplace. It also can be expensive. Not only does such an incident cause lost work time and lowered productivity, but depending on an employer's actions before the violent act, it can result in civil settlements as well.

The workplace has a duty to provide reasonable protection for employees

and invitees. Reasonable protection refers to premises security and management practices in the employment of persons. Reasonable security protection, however, is situational and dependant upon risk factors associated with foreseeability and notice. As risks increase, so does the duty of care; therefore, protection responses would naturally increase as the risks become known to the employer. It is recognized that total crime prevention is unattainable. The real objective is to displace, deter, or control criminal acts. A number of factors must be balanced to determine if there is a duty or obligation to protect employees or invitees from harm. In order to establish negligence upon a landowner or business, there must be: (1) a duty or standard of care recognized by law; (2) a breach of that duty or failure to provide adequate care; and (3) harm proximately caused by the duty to protect.<sup>38</sup>

*Respondeat superior* is one of the foundations of employment law that holds principals (employers) liable for the actions of their agents (employees). In other words, if the employer knows--or should know--of information indicating that a person is a risk for committing violence, the employer is responsible for any violent acts that person commits. An employer has a duty dictated by the Occupational Safety and Health Act (OSHA) to maintain the health, safety, and welfare of the workplace; if an employer knows, or should have known, of certain characteristics of an individual and hires the person or retains him or her in employment anyway, the employer is responsible for any harm the person causes.<sup>39</sup>

If a company has information that leads it to believe violence may occur, it must take action. If management had knowledge that an employee was being threatened with violence by other employees or third parties, then a duty

may arise to protect or at least investigate the threats. Courts have held that notice could result from phone threats, restraining orders, and other forms of communication.<sup>40</sup> The 1990 case *Tepel vs. Equitable Life Assurance Society*, for example, concluded that the company was responsible for the death of two people and injuries of nine others because it had been told about threats the killer had made against his wife who was employed at the insurance company, but had not beefed up security.<sup>41</sup>

In order for an employee to recover for damages resulting from a violent act committed in the workplace, there must be evidence that the business failed to provide adequate security, or that the security was below standard. If risks cannot be proven (i.e., the presence of foreseeability or notice), then the only recovery available may be worker's compensation or state victim compensation programs.<sup>42</sup>

While most criminal acts committed in the workplace involve robbery as the primary motive, it is important to establish some type of protective response. Business managers must also assure that employees are properly trained, screened and supervised before assuming sensitive responsibilities. This is not to suggest that businesses become "armed camps" or that every potential employee must possess a "top secret" clearance; however, reasonable security practices are simply efforts by management to protect workers and invitees. The extent of these practices should naturally vary with the business, but should always involve recognized protection practices.<sup>43</sup>

### Sexual Harassment in the Workplace

Both women and men can be victims of sexual harassment. The victim does not have to be of the opposite sex.

The harasser can be a supervisor, someone acting for an employer, or a co-worker. Whether or not sexual harassment in the workplace has increased over the years, the number of employees who complain about it has grown swiftly. Statistics from the Equal Employment Opportunity Commission (EEOC) show that the number of cases filed by mid-December 1994--14,400--was up from the 11,908 cases filed in 1993, which had almost doubled from the 6,100 cases filed in 1990.<sup>44</sup>

Although it can be a precursor to acts of violence and other criminal actions, sexual harassment is not itself legally classified as a crime in most jurisdictions in the U.S.; therefore, it can only be addressed through a civil action. Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972, prohibits sexual discrimination in employment. Section 1604.11(a) of 29 Code of Federal Regulation provides that harassment on the basis of sex is a violation of Section 703 of Title VII. All employees and employers are required by Federal law to enforce Title VII and provide a working environment free from sexual harassment. The EEOC recognizes two types of sexual harassment:

- Unwelcome advances that threaten an employee's job or affect decisions made about him or her; and
- Advances that create a "hostile work environment" or interfere with job performance.

Courts have increasingly demonstrated a willingness to hold companies vicariously liable for sexual harassment acts committed by their supervisors and employees. The doctrines of negligent retention and hiring have been applied to sexual harassment in the workplace. A recent

Illinois decision, *Geise V. Phoenix Company of Chicago*, determined that a company had a duty to select and retain managers who should not commit acts of sexual harassment. The U.S. Supreme Court has recognized that "hostile work environment" sexual harassment exists where an employee is subjected to sexual harassment that is sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment. (*Barbetta v. Chemlawn Services Corp.*, 669 F.Supp. 569 (1987)).<sup>45</sup>

Addressing sexual harassment with a serious commitment can prevent workplace violence from occurring. An employer's sexual harassment policy should describe conduct that constitutes harassment and include a forceful statement that sexual harassment is not tolerated by the company, as well as by state and Federal law. The employee's right to complain about sexual harassment without fear of retaliation should be explained in the policy, and a provision should be included to guarantee that an employee does not have to complain directly to the harasser. The policy should have a grievance procedure that the recipient of the harassment can follow and which encourages employees to report.<sup>46</sup>

The victim should make it clear that the sexually harassing conduct of a supervisor or co-worker is unwelcome. Use any company complaint procedure available. If you have been the victim of sexual harassment in the workplace, contact your local or state human relations commission or its equivalent. Contact the EEOC in Washington, D.C., if necessary. If you cannot access any of these agencies, contact your state Attorney General's Office for more information.

## Red Flags for Employee Behavior

According to John E. Douglas, Chief of the FBI's Investigative Support Unit, National Center for the Analysis of Violent Crime, some of the potential employee behaviors that should place managers and co-workers on alert include:

- Having an obsession with weapons;
- Compulsive reading and collecting of gun magazines;
- Excessively discussing weapons;
- Making direct or veiled threats;
- Intimidating or instilling fear in others;
- Having an obsession with one's job;
- Showing little involvement with co-workers;
- Displaying unwanted romantic interest in a co-worker;
- Exhibiting paranoid behavior;
- Being unaccepting of criticism;
- Holding a grudge;
- Having recent family, financial, academic, social, legal, or other personal problems;
- Showing interest in recently publicized violent acts;
- Testing the limits of acceptable behavior; and
- Making extreme changes in behavior or stated beliefs.<sup>47</sup>

Red flags for stress in the workplace include layoffs, reductions in force, and labor disputes. Managers must be trained so that they can properly discuss these realities with employees.

*Caution:* This list is merely to help develop awareness and recognition of potential risk behaviors. There is no definitive checklist of behavioral

indicators for a potential perpetrator of workplace violence.

## What Should Potential Victims of Workplace Violence Do?

Any indicators of potential violence in the workplace must be *immediately* brought to the attention of appropriate supervisors, human resources and security.

If you should experience any form of harassment or threats from another employee or a supervisor, or if you should witness any behavior that indicates a potential for violence, these incidents should be reported as soon as possible to management, according to your office or business policies and procedural guidelines. It is within your rights to request confidentiality concerning your report to management.

If you should become the victim of a stalking, you should notify your supervisor of this as soon as possible.

If you are experiencing any sort of violence or threats in your current relationship or marriage so that you feel the potential for personal harm is present or imminent, this also should be reported to your supervisor, human resources manager or an Employment Assistance Program counselor.

If you are victimized in the workplace, you are encouraged to also report the crime to local law enforcement authorities. The choice about whether or not to report belongs to you. However, statistics show that crimes reported sooner, rather than later, have higher arrest rates, and local authorities may be able to direct you to further victim assistance in the community. It is especially important for you to report any workplace victimization to local law enforcement if you get no response from



management, human resources, or security at your place of employment once you make them aware of the incident or threat.

Victims have rights within the criminal justice system. Although those rights differ from jurisdiction to jurisdiction, victims' rights often include the rights to be informed of and present at critical stages of the criminal justice process, and the right to some amount of input to the court at sentencing. For an explanation of those rights available to you, please contact your local police or your prosecutor's office.

### For Additional Information, Please Contact:

National Institute for Occupational Safety and Health  
4676 Columbia Parkway  
Cincinnati, Ohio 45226  
(800) 35-NIOSH

Office of Safety, Health and Working Conditions  
Bureau of Labor Statistics  
2 Massachusetts Avenue, NE, Room 3180  
Washington, DC 20212-0001  
(202) 606-6304  
TDD: (202) 606-5897

Your State Attorney General's Office, and/or

Your local prosecutor, legislator, or state congressman.

### Violence in the workplace is pervasive.

- Percent of employees in the past 12 months:
  - Threatened with physical harm, 22%
  - Harassed, 19%
  - Physically attacked, 14%
  - Often worried about being a victim, 10%

### Most attackers are people that employees deal with on a daily basis.

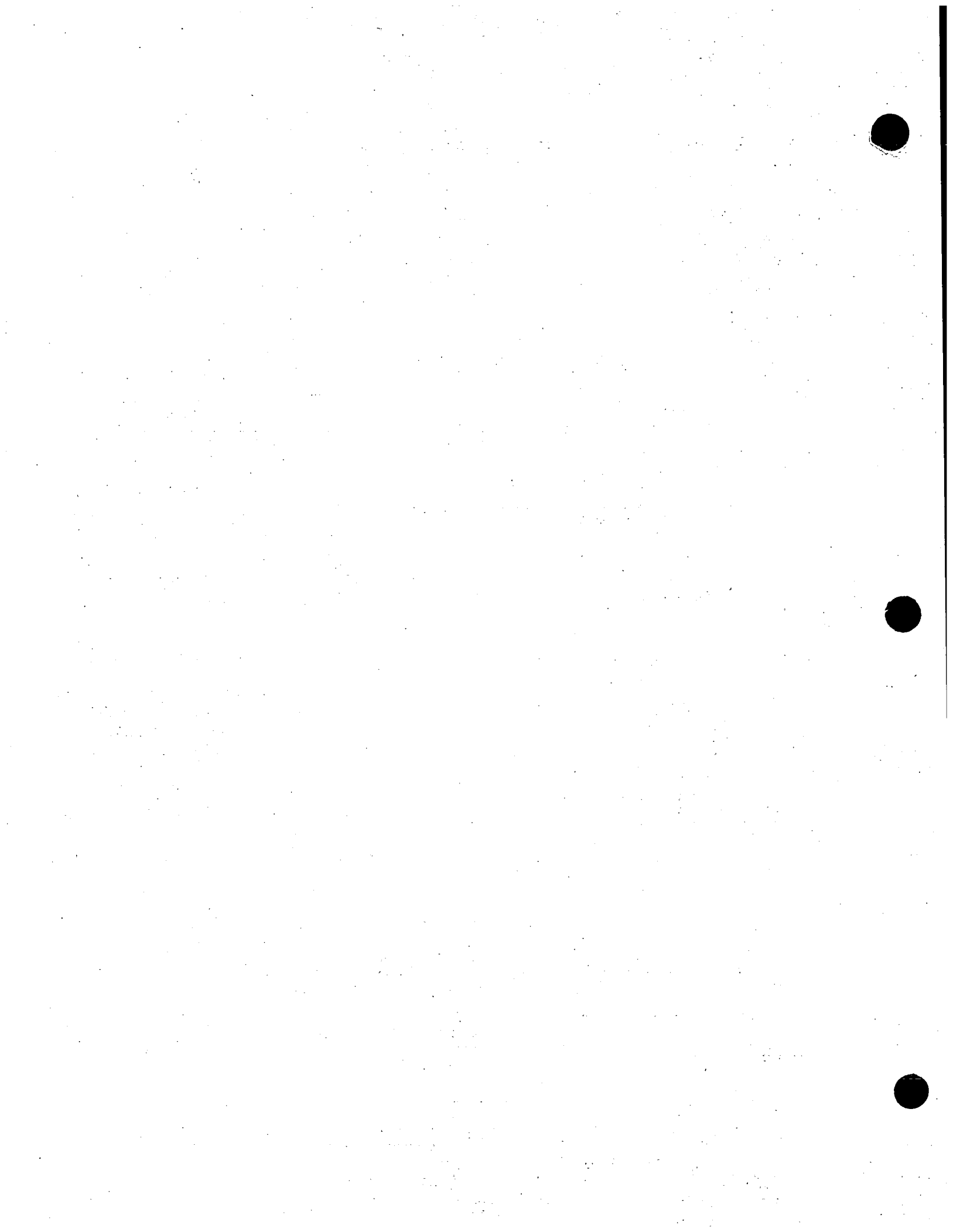
- Percent of attacks from:
  - Customer or client, 44%
  - Stranger, 24%
  - Co-worker, 20%
  - Boss, 7%
  - Former employee, 3%
  - Someone else, 3%

*Northwestern National Life Insurance Company Survey, 1993.*

### End Notes

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# What You Should Know About Coping With Threats and Violence in the Federal Workplace

## Why Threats and Violence Are a Problem

News stories about violent incidents appear every day on television and on the front pages of our newspapers. Some of these stories capture national or international attention because they are about assaults on United States Presidents, Members of Congress, or other public officials. But countless other Federal Government employees are vulnerable also. These employees are "on the front-line," dealing directly with the public every day--Social Security claims representatives, Immigration border guards, Internal Revenue Service agents. Because you work for the Federal Government is no guarantee that you're protected from or immune to threats or violence from "customers" or members of the general public.

People come into our Federal offices because they need our help. And, like customers anywhere, people who need the services provided by the Federal Government can become frustrated and tense. They may be nervous about their first visit to a Federal Government office. Sometimes they don't understand government procedures and regulations.

When all of these stress factors are combined, a person may commit, or threaten to commit, violence. Unless these emotional, angry, or frustrated individuals are handled properly, they may harm you, themselves, or other customers. Sometimes even coworkers--perhaps under a great deal of stress because of problems at work or at home--may become threatening or violent.

Many experts say there is no sure way to prevent acts of violence in a place serving customers. You, however, as a Federal "front-line" employee, can learn how to recognize the warning signs of a potentially threatening or violent situation and the specific steps to follow if you or a coworker become involved in such a situation. You and your coworkers also need to know about the enhanced security measures your office can adopt to bring your office and building up to higher standards of security and personal safety.

Read this information carefully and discuss the ideas and suggestions with your supervisor and coworkers.

## What Should You Do?

The following sections provide three fictional examples to describe the types of threatening or violent behavior that might happen in the Federal workplace.

The two "front-line Federal agencies" selected for our fictional incidents (the Retirement and Benefits Administration and the Student Loan Commission) are themselves fictional. However, they represent the kinds of offices where, because of the nature of their work, employees may be vulnerable to threats or violent incidents. The actions and reactions of the Federal employees portrayed are deliberately exaggerated. This is done for emphasis and is in no way intended to represent anyone in a negative manner.

The questions and multiple choice answers, after each example, are designed to help you think about what you should (or should not) do in similar circumstances. In-depth explanations of why each answer is or is not correct follow the questions. (The correct answers are also summarized for you in a handy, tear out card to keep on your desk as an emergency reminder of what you should do.)

These answers are intended as guides and illustrations--not rules. There may be no "right" answers for a real life situation. But the description of these fictional incidents should help you recognize a potentially threatening or violent individual early enough to cope with the problem before he or she causes harm.

The document is organized as follows:

- 1. Under Armed Threat - Reporting Incidents of Threat and Violence
- 2. When Hostility Turns to Violence - Victim Support
- 3. Telephoned Suicide or Bomb Threat - Obscene Harassing Calls
- 4. Employee Relations - Coping with Stress - Federal Employee Assistance Programs
- 5. Physical Security in a Front-Line Office - Features and Surveys
- 6. Points of Contact and Phone Numbers
- 7. Handy Tear Out Information Card

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## **Under Armed Threat**

It's late Friday morning on a hot summer day in a midwestern city. The Retirement and Benefits Administration office is filled with customers waiting to file for their retirement benefits and with claimants anxious about their overdue checks. Because of a breakdown in the changeover of the agency's central office computer, monthly checks have been delayed more than two weeks.

Customer Service Representatives Sally Mason and Becky Gaynor are working the counter this morning, doing their best to explain the delay to the frustrated claimants. Sally is wearing a fancy corsage on her new dress. This is her last day on the job after 30 years of Federal service. Becky is just a newcomer--she started with the agency less than a month ago and is still being trained.

At 11:45, Office Manager Jim Beacon stops behind Sally. "Are you ready for your big luncheon?" he whispers to let Sally know that she can leave the counter when she finishes with her current customer.

Sally notices that her next customer would probably be Bill Webber--he's already been waiting more than two hours. Webber frequently shows up with one complaint or another and he's always hard to handle. Sally doesn't know it, but today Webber is even more upset. Because of the delay in getting his check, his savings are almost gone. His wife can't find work. He's desperate and ready to do something drastic to get his money.

The last time he came into the office he actually threatened to hit Sally when she said she couldn't produce his check. She now wonders if she should have reported that incident. At the time she thought that Webber was probably just having a bad day.

As Sally, Jim, and other office personnel leave for Sally's retirement lunch, Assistant Manager Jeanne Franklin puts a "Closed" sign by Sally's place on the counter. Jeanne then tells Becky she's taking a lunch break in the back office. "I skipped breakfast and I'm starving," Jean says. "I'll relieve you in a few minutes."

The office is stifling. Becky wipes her forehead with a tissue and looks over the waiting area. Every seat is occupied and, because it's lunchtime, even more customers are arriving. Each newcomer takes a number from the counter dispenser.

Becky calls the next number, 24. Nothing happens. She calls 24 again in a slightly louder voice. Still no response. She calls 25. A man and a woman leave their seats and walk toward Becky. The woman hesitates, letting the man move ahead. Becky thinks the man looks familiar, but she's not sure. She's startled because his face is quite red and he's glaring at her.

"I've got 24, and I've got this, too," the man growls at Becky while patting his jacket. "Been waitin' hours in this hellhole," he says, his voice growing louder and more strident. "This is worse'n the army. This is the fifth time I've come lookin' for my check, and you'd better have a check here for Bill Webber now or else!"

At that, he pulls out a large handgun, points it right at Becky's face, and shouts, "Don't anybody move or I'll blow this woman away!"

What would you do? To prevent violence and injury and to discourage Bill Webber from using his gun, what should you do if you were Becky? To help avoid such a threatening incident for Becky, her coworkers, and for other customers, what should Jeanne Franklin, Sally Mason, or Jim Beacon have done?

1. *When Becky sees the gun pointed at her, she should:*

- a. Shout loudly, "Oh, my god! He's got a gun! Everybody run for your lives!"
- b. Grab the nearest telephone and dial 911.
- c. Freeze in place and do nothing, letting the potential assailant make the next move.
- d. Look the man directly in the eye. As she explains calmly that everyone's check is delayed because of computer problems, Becky should press the under-the-counter duress alarm to alert Jeanne Franklin, the Assistant Manager.
- e. Ask the man to put down the gun and write his name and Social Security number on a slip of paper so she can ask her supervisor to issue an "emergency check."

2. *When Assistant Manager Jeanne Franklin hears the alarm, what should she do?*

- a. Rush to Becky's side and try to disarm the potential assailant.
- b. After Becky signals for help, Jeanne should open the office door and look over the situation without alarming the potential assailant.
- c. Call GSA's Federal Protective Officers (FPO), the agency's security guards, or the local police immediately.

3. *What should Customer Service Representative Sally Mason have done before leaving for lunch?*

- a. Told Becky to brace herself for Bill Webber, a tough customer.
- b. Called Bill Webber up to the counter and waited on him first.
- c. Alerted Jeanne Franklin that Webber could cause trouble.

4. *What steps should Office Manager Jim Beacon have taken to prevent this and similar incidents?*

- a. Rescheduled Sally's retirement party for after office hours.
- b. Made sure two or more experienced clerks were working at the counter at all times.
- c. Consulted the Federal Protective Service, agency security guards, or the local police about what to do if a customer ever becomes violent.

Confrontations with an armed man or woman are the most dangerous of all situations involving violent persons and the most difficult for inexperienced people to deal with. Let's review Becky Gaynor's predicament and find out which answers are correct and why, and why other choices are the wrong ones.

1. *When Becky sees the gun pointed at her, she should:*

- a. Shout loudly: "Oh, my god! He's got a gun! Everybody run for your lives." No. This is precisely what Becky should not do. Shouts, screams, or panic reactions are likely to frighten an agitated person into taking action that could harm people or destroy property. Instead, remain as calm as possible; saying or

doing nothing is better than making a bad situation worse.

b. Grab the nearest telephone and dial 911. No. Dialing 911 or any telephone number in the presence of an armed assailant could frighten him or her into using the weapon. From his actions and words Bill Webber wants to scare Becky, not shoot her. If she can stay calm, time is on her side. The longer Bill Webber is kept from doing anything drastic, the less likely it is that he will.

c. Freeze in place and do nothing, letting the potential assailant make the next move. Yes. This may be Becky's only practical response. Above all, she should avoid doing anything that could cause the potential assailant to take action. Simply standing still and letting the individual "talk it out" may be all she should do under these extreme circumstances. Becky shouldn't try any heroics that could cause Bill to react violently.

d. Look the man directly in the eye. As she explains calmly that everyone's check is delayed because of computer problems, Becky should press the under-the-counter duress alarm to alert Jeanne Franklin, the assistant manager. Yes. Although Becky had been told to use the alarm button, she forgot all about it when she first saw the gun pointed at her. She should keep talking to gain time and calm the gunman. Becky should never feel that she is entirely helpless. She (and all Federal front-line employees dealing with the general public) should have access to a hidden alarm button under the service counter to alert a supervisor or building security.

e. Ask the man to put down the gun and write his name and Social Security number on a slip of paper so she can ask her supervisor to issue an "emergency check." Yes. As long as Becky remains calm, it's possible that he may put down the gun. If he does, Becky should never try to be a hero by grabbing the weapon. Instead, she should ask him to wait while she calls her supervisor to help resolve his problem. If he lowers the gun, Becky should call Jeanne on the intercom and mention the prearranged word or phrase ("emergency check") that tells Jeanne to summon the FPS, agency security guards, or local police immediately. (The organization to call depends on what protective services are provided in your building.) Becky should keep calm until security guards can disarm the man and remove him from the premises.

2. *When Assistant Manager Jeanne Franklin hears the alarm, what should she do?*

a. Rush to Becky's side and try to disarm the potential assailant. No. Don't try to be a hero! Such a reckless move could seriously endanger everyone in the room.

b. After Becky signals for help, Jeanne should open the office door and look over the situation without alarming the potential assailant. Yes. When she hears Becky's signal, she should carefully open the door and then write down the man's description--approximate height and weight, color of hair and clothing, age, race, and any prominent features. If possible, Jeanne should estimate the number of people in the room. Next, she should quietly close and lock the door to protect herself. (If there is a "safe room" in the office area, she should alert the person who is in charge of the room to be prepared for an emergency.)

As soon as Jeanne has assessed what's happening, she should immediately telephone GSA's Federal Protective Service (or the agency's building security guards or the local police). Jeanne should describe the potential assailant, emphasize that he has a gun, and estimate how many people are in the room and where they are--by windows, doors, along the wall. Jeanne should provide as many other details as possible. Jeanne should also give her private telephone number for the FPS or the police to call her back. A word of caution. If Jeanne thinks that opening the door wider to get a better look is too dangerous, she should immediately call the FPS (or security guards or the local police).

c. Call GSA's Federal Protective Officers (FPO), the agency security guards, or the local police immediately. Yes. Law enforcement officials can provide the expert assistance Jeanne, Becky, and the customers need. A well-managed office should have an emergency plan that has been developed in cooperation with the FPS, security guards, or the local police so that all employees know what procedures to follow until help arrives.

3. *What should Customer Service Representative Sally Mason have done before leaving for lunch?*

- a. Told Becky to brace herself for Bill Webber, a tough customer. No. Since Becky is new on the job, Sally should not have expected Becky to wait on him.
- b. Called Bill Webber up to the counter and waited on him first. Yes. Sally knows from her past run-ins with Bill Webber that he's an excitable, easily agitated person. To avoid further problems with him (and a potentially dangerous situation), Sally should have waited on Webber herself--but only after taking the actions described in "c" on the next page.
- c. Alerted Jeanne Franklin that Webber could cause trouble. Yes. In fact, Sally should have reported the previous incident involving Webber to her supervisor at the time it happened, rather than excusing his behavior. That way, office personnel would have been better prepared for his next visit. To avoid threats and violence, front-line employees must always take threats seriously and report them to their supervisors or the Federal Protective Service.

4. *What steps should Office Manager Jim Beacon have taken to prevent this and similar incidents?*

- a. Rescheduled Sally's retirement party for after office hours. Yes. While retirement parties are morale boosting and fun for everyone, Jim Beacon should have scheduled Sally's party at a time when the office was not open to the public.
- b. Made sure two or more experienced clerks were working at the counter at all times. Yes. A manager should never leave a new or inexperienced employee such as Becky alone in a public, front-line position. Nor is it good practice to leave only one clerk on duty, especially during the lunch hour when more people are expected to come into the office.
- c. Consulted the Federal Protective Service, agency security guards, or the local police about what to do if a customer ever becomes violent. Yes. The highest ranking Federal official within the agency or building should work out an emergency procedure plan with GSA's Federal Protective Service, building security guards, or the local police to be followed in dealing with an armed or potentially dangerous individual. Agency officials should also request a GSA Physical Security Survey (see Physical Security in a Federal Front-line Office).

#### Reporting Incidents of Threats and Violence

The first time Sally Mason (in "Under Armed Threat") was threatened--no matter how "minor" she thought it was--she should have immediately reported it to her supervisor and then called the Federal Protective Service, contract guards, or the local police. Incidents of threats or violence involving co-workers also should be reported--before they lead to a life-endangering situation. In addition, Federal agencies must report immediately any suspicious activities or criminal acts that occur on Federal property.

Any incident should be reported to one of the following:

- GSA Federal Protective Service core or satellite control centers.
- FPS physical security specialists or FPS Officers, contract guards, or GSA field office managers.
- Local police or law enforcement agency--where there is no GSA protective service. (In such situations, the Federal agency also must report the incident to GSA as soon as possible.)

If your agency has its own internal security reporting requirements and enforcement or investigative authority, send the Federal Protective Service an unclassified report describing the threatening, violent, or criminal incident. This is especially important when GSA provides physical security and law enforcement services for your Federal building. GSA will report crimes and incidents of threatening or violent behavior to the regional offices of the GSA Inspector General, the Federal Bureau of Investigation, and local police departments--where they have jurisdiction or direct control.





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In these nonstranger workplace homicides, two categories of victims emerge—supervisors and domestic partners. Although no organized central effort currently exists to collect data on the characteristics of these cases, many media reports cite the initial intended victim as a former or current supervisor. While at one time employers could fire employees with no fear of repercussions, they now must contend not only with avoiding employee-filed lawsuits but also with avoiding violence. Obviously, employers should handle terminations with concern for the well-being of the person being fired and for the safety of those who remain employed.

According to the NIOSH study, domestic cases also can spill over into the workplace. The cause for the victimization of women in the workplace by domestic partners is easy to understand. While a woman may change her residence, her work address remains the same.

This presents a special problem for employers. Do victims of domestic threats deserve special protection in the workplace? Because the courts consistently have held employers liable for protecting employees from known hazards and for the peace and efficiency of the workplace,<sup>4</sup> employers should enact special security measures when their employees bring problems to their attention.

### CASE STUDIES

Like many of the assailants in workplace homicides, Patrick Sherrill had a history of work problems, and he knew that he faced dismissal. On August 20, 1986, he walked into the post office in

“  
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 ”



*Sergeant Duncan serves in the Patrol Division of the Department of Public Safety, Sarasota, Florida.*

Edmond, Oklahoma, and before he finally took his own life, he killed 14 other postal employees.<sup>5</sup>

Robert Farley's fruitless obsession with a female coworker led to his eventual dismissal in 1986, but it was almost 2 years later, on the day that he missed a hearing for violating a restraining order from the same woman, that he returned to his former workplace in Silicon Valley. Farley was prepared; he brought along a shotgun, a rifle, two handguns, bandoliers of extra ammunition, and gasoline. When he finally surrendered, seven people were dead and four (including his imagined girlfriend) were wounded.<sup>6</sup>

Patrick Sherrill, Robert Farley, and Paul Calden had different jobs in different places at different times, but they did have some things in common, as do many workplace assailants. The cases reviewed for this article were selected from 89 incidents of nonstranger workplace homicide reported by the media between May 1988 and May 1994. Thirty-nine reports had adequate

detail to study the following criteria: Sex of the offender, means of attack, age of the offender, relationship of the victim and offender, type of workplace, number of victims, and resolution of the act. The cases studied were chosen mainly because they were reported in the most detail; however, thousands of workplace crimes occur every year.

### Man With a Gun

Review of media accounts produced two glaring results: 97 percent of the assailants were male, and a firearm was used in all cases studied. This may be because, in addition to having experience with firearms, men often strongly identify with the traditional role of the "breadwinner." The loss of a job can mean a loss of identity for many men, even if they have a family or support system.

At the same time, society has been breeding what has been called a "culture of excuse,"<sup>7</sup> where individuals claim to be "victims" who

are not responsible for their own behavior. These factors certainly are at work in these cases, and their recent emergence coincides with the growth of this type of crime.

The use of firearms in these crimes reflects extensive planning by the offender. The assailants usually have plenty of time to prepare. Their crimes are not spur-of-the-moment, temporary insanity cases. Their mission is to go to the workplace for one purpose—to kill—and the most effective way to do that is with a firearm. Moreover, these assailants sometimes carry extra firearms, ammunition, and even a list of their intended victims.

#### Mid-Life Crisis

While murder suspects in general are under 30 years of age,<sup>8</sup> the nonstranger workplace killers examined here averaged 38.2 years of age. In fact, only 2 of the 39 assailants were under age 25.

Several studies have shown that these assailants often have a history of frustrating life experiences.<sup>9</sup> Older individuals have more of a chance to build up a series of these frustrations. Thus, the growing number of

middle-aged workplace assailants may reflect the increasing age of the general population.

#### Disgruntled Employees

The relationship of the assailants to the workplace was split almost evenly between current and former employees, 41 percent and 46 percent, respectively. Many of the employees had grievances or disciplinary actions pending at the time of the attacks. In several instances, the employee/assailant was seeking retribution for being passed over for promotion. The remaining 13 percent of the cases consisted of domestic partners, clients or customers, and others.

#### Civil Servants

The employer most likely to be victimized by workplace homicide is the government—local, State, or Federal—accounting for 38 percent of the cases. The Federal Government is still the largest employer in the United States, but with only 15 percent of the country's workforce,<sup>10</sup> Federal employees are involved disproportionately in workplace violence.

Post offices have had the worst experiences; 38 postal employees have been murdered since 1986.<sup>11</sup> In nongovernmental occupations, factories and production facilities accounted for 18 percent of the incidents, which may be due to a disproportionate number of male workers, as in the postal service.<sup>12</sup>

#### The Body Count

While the media tend to accentuate the cases with the greatest number of victims, the average number of deaths per incident (including offender suicides) was 2.5. In 39 percent of the cases, the assailant killed one person.

#### The Final Act

Thirty-six percent of the assailants committed suicide, reflecting the finality of their intentions. This represents a real danger to responding officers. If offenders do not care about getting hurt—or worse, if they expect to get hurt—they may react recklessly aggressive, which gives them a tremendous tactical advantage over police officers.

#### PREVENTION AND MANAGEMENT

As with any crime, prevention remains the best way to approach nonstranger violence in the workplace. Unfortunately, intimidated by hundreds of laws pertaining to the selection of applicants and employee rights, many employers believe that they can do nothing to screen job applicants. In reality, many methods exist that enable employers to judge applicants.

In all cases, a good background investigation is essential. While law enforcement agencies have

#### Possible Warning Signs Exhibited by Problem Employees

- Chronically poor work performance
- Conflicts with supervisors and/or other employees
- Unfounded grievances and complaints
- Abuse of sick leave
- View of self as a "victim."

experience conducting background investigations, private employers may be reluctant to venture into this area, so they may wish to hire outside contractors. Some companies have found that only 10 percent of the applicants with criminal records actually admitted this fact when applying for employment. Further, up to one-third of all job applications contain a major falsification.<sup>13</sup>

In addition, employers often lack experience in dealing with problem employees and have no procedures in place to guide them. Problem management depends on recognizing the various warning signs that these employees usually exhibit. Some of the classic warning signs are chronically poor work performance, conflicts with supervisors and/or other employees, unfounded grievances and complaints, abuse of sick leave, and view of self as a "victim."

Any threat of violence, subtle or direct, should be taken seriously, then documented and investigated by the local police if appropriate. While none of the above factors guarantees future violence, workplace murderers sometimes do make their plans very clear, if anyone is paying attention. Early recognition and intervention with a problem employee give the best opportunity to manage the problem. Then, if the employee does not respond and must be terminated, the properly documented case history provides an easily defensible action in court.

Termination implies an ending, but it may be only the beginning of a series of problems for an employer. Harassment, stalking, vandalism, and assaults by ex-employees

should be prosecuted to the fullest extent. Employers should increase all security measures, which even may mean issuing bulletins to current employees identifying ex-employees who are causing problems. Current employees near termination most likely should be placed on administrative leave to prevent them from using their access to the workplace to commit crimes or to stage false injuries, harassment complaints, or similar incidents that portray them as victims.

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**Termination-related workplace homicides have occurred as soon as 5 minutes and as long as 3 years after the termination of the assailant.**  
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## STRATEGIES FOR LAW ENFORCEMENT

### Answering Calls for Service

For the uniformed patrol officer, disputes, trespassers, and reports of unknown problems in the workplace now take on a new meaning and require a heightened sense of caution. Officers should respond to a dispute at a law office, bank, or factory at 11 a.m. using the same caution as they would for a domestic disturbance at 3 a.m. in a housing project.

Like domestic disputes, the emotional extremes and high degree

of lethality demonstrated by workplace assailants mean that warnings, counseling, or any leniency often prove ineffective. Officers should encourage victims to pursue arrest, prosecution, and followup security to prevent future, possibly fatal, incidents.

### Investigating Unknown Assailants

Although workplace assailants often make little attempt to conceal their identities while the crime is in progress, officers and detectives will respond oftentimes to cases involving an unknown perpetrator. In such cases, officers should look for indications that the crime was committed by someone who had some kind of working relationship with the victim, whether an individual employee or place of business.

As in domestic crimes, workplace crimes by nonstrangers routinely share a unique characteristic that differs from most other types of crimes—the lack of a profit motive. Personal crimes, sabotage, and vandalism are classic crimes of revenge committed only to victimize the target and emotionally appease the perpetrator. Also, as in domestic incidents, these crimes always focus on a specific victim. While the perpetrator may enter a workplace and then start shooting apparently indiscriminately, the victim is the entire institution, not a particular employee.

Another factor appearing in workplace homicides is the occurrence of overkill. One incident not included in the 39 case studies provides insight. The manager of a

## Assailants' Last Words

"I'll prosecute this myself."

—Last comment assailant made about a complaint he had lodged before he killed two employees at a retail store. Source: "Gunman Shoots Two to Death," *The Sarasota Herald-Tribune*, December 18, 1993, 3(A).

"Check out the local news tonight for a public service message."

—Part of a suicide note from an ex-teacher to his girlfriend before he killed a school superintendent. Source: "Ex-Teacher Kills Lee County School Chief," *The Sarasota Herald-Tribune*, February 8, 1994, 1(A).

"Nothing matters. I'll be dead in 6 months and I'll take a few people with me."

—Comment made to a neighbor during a dispute, 6 months before assailant returned to his former workplace and killed three people. Source: "Methodical Killer Plotted His Revenge," *The Tampa Tribune*, February 1, 1993, 1(B).

muffler shop was stabbed 28 times and had his throat cut. This evidence, coupled with the fact that the murder had occurred soon after the manager had opened the shop for the day's business, with no sign of forced entry and nothing taken from the victim or the business, eventually led investigators to arrest a recently fired employee.<sup>14</sup>

With the rare exception of union-related violence, crimes by nonstrangers in the workplace almost always are committed by single perpetrators. Terminations, disciplinary actions, and promotions within an institution rarely affect groups of people.

Although the current downsizing trend has led some companies to institute massive layoffs, none of the

nonstranger workplace homicides studied here had any relationship to corporate restructuring. Possible factors to consider in such cases include the assistance—job placement, severance packages, etc.—that corporations often give to laid-off employees and the fact that these employees do not perceive themselves as being singled out.

One final factor to explore in unsolved workplace crimes is the recent history of employee problems within the institution. Employers may be reluctant to share information on terminations, disciplinary actions, and internal grievances, but investigating officers must emphasize the importance of solving the current crime to prevent others. In cases of violent crime, the list of

terminated employees may have to be reviewed for the past several years. Termination-related workplace homicides have occurred as soon as 5 minutes and as long as 3 years after the termination of the assailant.

If officers do not find leads when looking at terminations, they should look at internal grievances, complaints, and disciplinary actions. In almost all cases of workplace assailants, there are indications of substandard work performance. For example, Paul Calden had a lengthy history of conflicts with management and other employees over events that he often exaggerated. In one instance, he filed a formal complaint of harassment against a female coworker because of a joking bumper sticker on her personal vehicle that made fun of his alma mater.

### Advising Employers/Victims

Few institutions have any prepared policies or training related to workplace violence. As a result, when the time comes for action, they often find themselves, at least initially, completely dependent on local law enforcement agencies. These victims expect the police to do a complete threat assessment on the case and predict what will happen next. In such cases, perhaps the only advice that police can give is that no one can predict what one person likely will do under any circumstances, let alone in stressful situations.

Explaining the seriousness of these offenses to potential victims remains difficult because most

institutions, when dealing with crime prevention, have grown accustomed to facing perpetrators who want to steal something and then leave. In addition to present and former employees' knowing the institution's physical plant and security procedures (or lack thereof), these perpetrators often do not care if they are identified because as the data show, for over one-third of them, this crime will be the last act of their lives.

Potential victims must realize that they should take every physical and procedural security precaution available. Employers should change security codes each time they terminate an employee and warn all remaining employees that the dismissed employee no longer should be admitted on the premises.

When corporations fail to take these measures, the results can be fatal. When Pacific Southwest Airlines terminated David Burke in 1987, security employees still admitted him without a pass because he was "a familiar face." Burke boarded a plane carrying his former supervisor, and while in flight, shot him and the pilots. Inevitably, the plane crashed, killing everyone on board.<sup>15</sup>

Potential victims also must be advised strongly to report all criminal activity to the police and to document every instance of malfeasance by current or former employees. A successful prosecution for a crime such as stalking may depend on an accurate record of all of the problems the perpetrator caused during and/or after employment.

### Looking in the Mirror

Violence by employees is, unfortunately, not foreign to law enforcement agencies. The presence of firearms and the predominantly male composition of the profession, combined at times with a strict disciplinary system, expose law enforcement agencies to the major factors involved in workplace violence.

Each agency should review its own internal policies and make sure they are adequate. Each agency also must appraise honestly how well it documents performance problems. Agencies that do not maintain accurate personnel files may send an employee with serious problems to wreak havoc at another agency.

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**...warning signs oftentimes identify employees who may be prone to acts of violence.**

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### CONCLUSION

Violent crime by nonstrangers in the workplace has been on the rise recently, and there is no reason to expect it to decrease. While these crimes are as unique as their perpetrators, warning signs oftentimes identify employees who may be prone to acts of violence.

Officers in the field should approach workplace disputes with a heightened sense of caution and be

able to spot characteristics of these crimes while conducting investigations. Finally, law enforcement agencies also are victimized by these crimes, and like all other employers, they should review their own preparedness and make improvements where needed. The lives they save may be their own. ♦

### Endnotes

<sup>1</sup> "Former Employee Kills Three in Cafeteria," *The Tampa Tribune*, January 28, 1993, 5(A).

<sup>2</sup> "Homicide in U.S. Workplaces," National Institute for Occupational Safety and Health, Morgantown, West Virginia, September 1992.

<sup>3</sup> "Fear and Violence in the Workplace," Northwestern National Life Insurance Company, Minneapolis, Minnesota, 1993.

<sup>4</sup> D.G. Sarvadi, *Environmental Law Handbook* (Rockville, MD: Government Institutes, Inc., 1993), 513.

<sup>5</sup> "2 Killed, 4 Injured in Shootings at Post Offices," *The Sarasota Herald-Tribune*, May 6, 1993, 4(A).

<sup>6</sup> "Gunman Says Love Led to Massacre," *The Sarasota Herald-Tribune*, February 18, 1988, 3(A).

<sup>7</sup> "Sympathy Factor Dominates Courtroom of the 90's," *The Sarasota Herald-Tribune*, February 18, 1988, 3(A).

<sup>8</sup> *1990 Sourcebook of Criminal Justice Statistics* (Washington, D.C.: U.S. Department of Justice), 420-421.

<sup>9</sup> James Fox and Jack Levin, *Mass Murder—America's Growing Menace*, cited in "Worker's Despair May Fuel Killings," *Sarasota Herald-Tribune*, February 20, 1994, 10(A).

<sup>10</sup> *The 1993 Information Please Almanac* (Boston: Houghton Mifflin Company, 1993), 63.

<sup>11</sup> *Supra* note 4.

<sup>12</sup> "Post Office Shootings," *The ABC Evening News*, 3 April 1993.

<sup>13</sup> "Mistakes in Hiring Are Painful and Expensive," *The Sarasota Herald-Tribune*, November 1, 1993, 6(D).

<sup>14</sup> "Workplace Violence," *The Oprah Winfrey Show*, CBS Television, December 16, 1993.

<sup>15</sup> "Settling a Score," *Newsweek*, December 21, 1987, 43.



# Crime Data Brief

July 1994, NCJ-148199

## National Crime Victimization Survey

# Violence and Theft in the Workplace

By Ronet Bachman, Ph.D.  
BJS Statistician

Each year nearly 1 million individuals become victims of violent crime while working or on duty. These victimizations account for 15% of the over 6½ million acts of violence experienced by U.S. residents age 12 or older. In addition, over 2 million personal thefts and over 200,000 car thefts occur annually while persons are at work. This report analyzes data from the National Crime Victimization Survey (NCVS) for 1987-92 to describe these crimes. (See the NCVS box on page 2.)

- Crime victimizations occurring in the workplace cost about half a million employees 1,751,100 days of work each year, an average of 3.5 days per crime. This missed work resulted in over \$55 million in lost wages annually, not including days covered by sick and annual leave.

### Annually, 1987-92 —

- Nearly 1 million violent victimizations occurred while victims were working or on duty
- These victimizations resulted in almost 160,000 injuries.

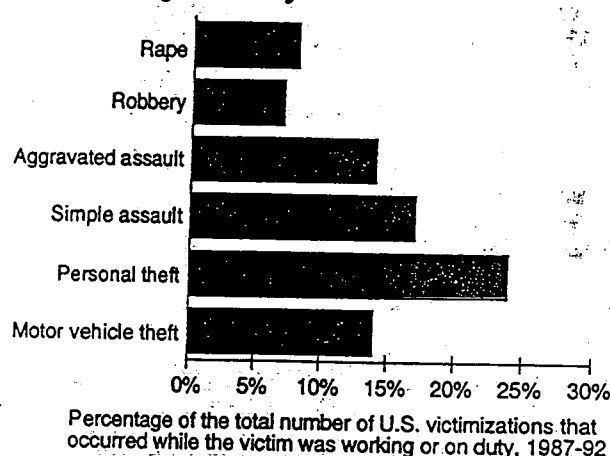
Type of crime	Average annual number	
	Victimizations	Injuries
Crimes of violence	971,517	159,094
Rape*	13,068	3,438
Robbery	79,109	17,904
Aggravated assault	264,174	48,180
Simple assault	615,160	89,572

\*Injuries are those in addition to the rape.

Victims who were working were as likely to face armed offenders as those victimized while not working. Over 30% of victims who were working during a violent victimization faced armed offenders. Almost a third of these offenders had a handgun.

- Among people victimized while working, men were more likely than women to experience a violent crime. However, women were just as likely as men to become the victims of theft while working.

An estimated 8% of rapes, 7% of robberies, and 16% of all assaults occurred while victims were working or on duty



- Victims of violence at work were less likely to be injured than victims of violence that occurred away from work. Sixteen percent of violent victimizations which occurred while the victim was working resulted in physical injuries; 10% of these injuries required medical care.
- Among only those persons injured by a crime victimization at work, an estimated 876,800 workdays were lost annually, costing employees over \$16 million in wages, not including days covered by sick and annual leave.
- 6 out of 10 incidents of workplace violence occurred in private companies. While government employees make up approximately 18% of the total U.S. workforce, 30% of the victims of violence in this sample were Federal, State, or local government employees. Several factors may be responsible for this overrepresentation, including a potentially high risk of victimization for particular government occupations, such as public safety personnel.



• Although men who were victimized while working were more likely to be attacked by a stranger, women were more likely to be attacked by someone known to them. Five per-

Victim-offender relationship	Percent victimizations	
	Female	Male
Stranger	40%	58%
Casual acquaintance	35	30
Well known	19	10
Relative	1	1
Intimate	5	1

cent of the women victimized at work were attacked by a husband, ex-husband, boyfriend, or ex-boyfriend.

• Over half of all victimizations sustained at work were not reported

to police. When individuals were asked why they did not report, 40% said they believed the incident to be a minor or a private matter. An additional 27% did not report to police because they reported the victimization to another official, such as a company security guard.

**Victims of violence at work were less likely to be injured than persons victimized while not working, 1987-92**

Percent of violent victimizations, by activity of victim

Characteristic	Percent of violent victimizations, by activity of victim	
	Working	Not working
<b>Offender was armed</b>		
No	62%	56%
Yes	32	35
Not ascertained	6	9
<b>Sustained injuries</b>		
No	84%	69%
Yes	16	31
Required medical care	10	16
Lost worktime because of injuries	6	5
<b>Incident reported to police</b>		
No	56%	52%
Yes	43	47
Not ascertained	1	1

**According to victims of violent crime at work who identified more precisely the location, over a third of the crimes occurred in commercial establishments, 1987-92**

Place where victimization occurred	Percent of victimizations occurring at work where victim identified location
<b>Total</b>	<b>100%</b>
<b>Type of work setting</b>	
Private company	61%
Government employee (Federal, State, or local)	30
Self-employed	8
Working without pay	1
<b>Location where victimization occurred</b>	
Restaurant, bar, or nightclub	13%
Office, factory, or warehouse	14
Other commercial establishment	23
On school property	9
Parking lot/garage	11
On public property (such as streets and parks)	22
Other	8

The National Crime Victimization Survey conducts interviews with over 100,000 individuals age 12 or older annually. Respondents who reported a violent victimization and said they were either working or on duty when asked, "What were you doing when the incident happened?" represent the sample for this report. This group does not include those victims who said they were on their way to or from work. For more information about the NCVS methodology, see *Criminal Victimization in the United States, 1992*, NCJ-145125, March 1994.

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**Violence and Theft  
in the Workplace**

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# SHORT FUZE

Agency downsizing,  
benefit cutoffs and  
growing hatred of  
government have  
left federal  
employees more  
vulnerable than  
ever to workplace  
violence.



**E**arly one crisp March morning in 1995, Ernest J. Cooper strode into a Navy manager's 10th-floor office and shot him twice with a .45-caliber handgun loaded with pellet cartridges. Co-workers at the Naval Air Systems Command cowered behind locked office doors in the Crystal City, Va., building as Cooper continued to the next cubicle. There, he pumped four more shots into a Navy commander. Cooper then killed himself with a shot to the head. The manager, hit in the neck and lower back, lost a kidney, but recovered. The commander suffered flesh wounds.

Co-workers told FBI agents and local police they knew of no bad feelings among the men, according to the *Washington Post*. "There was no more tension than in any office when you're under pressure to do a job well with downsizing," said one employee. Cooper, a retired Air Force officer, had worked at the Naval Air Systems Command for nine years and was said to be preparing for a new work assignment. A neighbor speculated the job change and transition from military to civilian life may have played a role in Cooper's actions, though Cooper rarely complained about work.

Federal workplace violence isn't confined to angry postal employees anymore. Today violence can hit any agency any day from any quarter for a growing laundry list of reasons. Customers erupt when service is too slow or benefits are cut. Angry citizens find government a large, enticing target for their frustrations. Crime seeps from city streets onto federal property and into federal buildings. Staff cuts and efforts to reinvent and

reengineer operations without adding resources erode morale and eat away at employees' confidence.

No one will ever know whether Cooper's pending reassignment, staff cuts at his agency or a plan to move the command out of Crystal City played a role in his actions. But stress from downsizing and restructuring is a potential source of violence among workers, according to many experts.

"People can't work as fast as organizations make changes," says Anthony Baron, a violence prevention expert whose San Diego-based firm, the Baron Center, counsels federal agencies. "There's a greater sense of urgency. You cannot reengineer unless you re-humanize. Leadership has to recognize what the limits are."

Lisa Teems, who heads the Health and Human Services Department's workplace violence task force, says her organization has changed in recent years. "It's not only downsizing, it's shifted responsibilities. People are asked to do more with less. Morale is bad and that contributes to irritability."

Recognizing that stress can escalate into other problems, some agencies have begun accounting for it in their anti-violence plans. The Centers for Disease Control, for example, has a violence prevention policy that calls on supervisors to be sensitive to workplace stress and consider changes to alleviate it.

#### **At Disproportionate Risk**

Simply easing federal workers' stress won't eradicate the violence they face. The April 1995 Oklahoma City bombing, subse-

B Y A N N E L A U R E N T

## How the Postal Service Plans to Stop 'Going Postal'

The U.S. Postal Service has the most advanced, comprehensive and widely disseminated workplace violence prevention program in government. That stands to reason, considering postal murders added the term "going postal" to the workplace violence lexicon. But postal officials hope the troubles are behind them now as a result of moves to alter the agency's admittedly authoritarian management style and put in place a new violence awareness program.

The anti-violence policy includes zero tolerance for workplace threats; a crisis management plan; violent incident drills; and threat assessment teams to identify workplace risks (including employee remarks and actions) and recommend abatement plans. A video in production, "Separation Without Violence: A Peaceful

Parting," teaches humane ways of firing employees. By Sept. 30, 61,120 postmasters, managers, supervisors and local union leaders had attended eight-hour violence awareness training sessions. But another type of training may be doing just as much to stave off postal violence.

"When I began in 1977, the workforce was predominately male. The conversation allowed would be less than appropriate today. Conflicts would arise from allowing things like profanity, off-the-cuff jokes," says Arlington, Va., Postmaster Leonard Naper. He credits beefed up management training for helping create a new, safer environment in postal facilities. "The biggest change took place through the required [management] training." Naper's comments confirm what a number of experts say about workplace violence: Basic

management training is every bit as important as specialized anti-violence courses. "As a manager, I'm developing the environment. We teach [people] how to listen to the other person and how disagreements can be resolved," Naper says.

Naper also has learned to rely on the employee assistance program [EAP], something some managers are reluctant to do. "There might be a change in an employee's behavior. You have to approach that and you have to ask about it. The solution might be beyond the scope of my experience so I refer the person to the EAP." Each of the 85 postal districts has an EAP coordinator and employees and their family members get 12 free counseling sessions each year, according to Bradley Johnson, postal service employee relations specialist.

quent bomb threats and antigovernment plots, along with growing danger from angry customers and criminals show federal employees are at increasing risk of violence from the people they serve. The American Society for Public Administration acknowledged as much in July, when it passed a resolution citing growing risks to public workers from street crime and family violence, domestic and international terrorism, increased conflict among employees and between employees and clients, and negative attitudes toward government held by extremist groups and large numbers of the general public. The organization endorsed zero tolerance for violence against public employees.

Violence is not endemic to federal offices, though it sometimes seems that way. "Every time it happens in government it gets high visibility. I have a lot of corporate clients that have incidents of violence but they don't hit the papers and [CEOs] don't

have to go before Congress," says Dale Masi, professor at the University of Maryland Graduate School of Social Work in Baltimore and president of Masi Research Consultants, a violence prevention firm. In fact, each year nearly 1 million Americans are assaulted while working or on duty, according to the Justice Department. On average, 20 workers are murdered and 18,000 are assaulted each week.

Although government workers make up just 18 percent of the workforce nationwide, 30 percent of the assaults occurred among state, local and federal government employees. The presence of police in the govern-

ment category only partially explains civil servants' disproportionate share of workplace violence. Today the core jobs of the civil service—helping the public and delivering benefits—are among the top risk factors for workplace violence.

The Bureau of Labor Statistics found that in 1992, the majority of workplace assaults—64 percent—occurred among workers serving the public. Most attacks came in nursing homes (27 percent), social service agencies (13 percent), and hospitals (11 percent). With the increasingly geriatric nature of medical care in the Department of Veterans Affairs, the vast array of social services federal agencies deliver, and the large number of employees in National Institutes of Health, Indian Health Service and VA hospitals, it's clear that federal workers hold more than their share of high-risk jobs.

Most federal occupations are at lower risk than private-sector occupations for murder, the No. 2 cause of work-related

### Handling Angry or Hostile Customers or Co-Workers

- Stay calm. Listen attentively.
- Maintain eye contact.
- Be courteous and patient.
- Keep the situation in your control.

If person shouts, swears or is threatening:

- Signal for help using duress alarm or pre-arranged code words.
- Have someone else call guard or police.

### If someone threatens you with a weapon

- Stay calm, maintain eye contact and quietly signal for help with alarm or code words.
- Stall for time. Keep talking, but follow the person's instructions.
- Don't risk harm to yourself or others.
- Never try to grab the weapon.
- Watch for a chance to escape to a safe area.

Source: Federal Protective Service

## Trouble at Work

Violence and threats against federal workers in the last year.

Dec. 26, 1995, San Jose, Calif.

Mail handler fired after his story about the shooting death of a postal manager is published in an electronic magazine on the World Wide Web.

1996, New York

The regional Office of Workers' Compensation closes its doors to walk-in customers—all federal employees—after getting word that a postal employee threatened to kill office employees.

Dec. 27, 1995, Reno, Nev.

Two men, allegedly disgruntled taxpayers, are charged with planting a bomb outside an IRS building. The bomb fails to ignite. It is the second IRS bombing attempt in a Western state in three months.

death in the United States in 1995, according to BLS. Despite the attention given to postal killings, the jobs with the highest murder rates are taxi driver, law enforcement officer and retail worker. Federal workers nonetheless hold the distinction of being targets not because they work alone, handle money or deal with criminals, but simply because of public antipathy toward their employer. The Oklahoma City bombing, in which 90 federal workers perished, accounted for 12 percent of 1995's workplace murders, and nearly a third of the year's 299 federal workplace fatalities.

### No More Santa Claus

Changes in government services and benefits also imperil civil servants. For years, Social Security Administration claims representatives have suffered a steadily rising level of abuse. Customers have punched through walls, thrown computers, cursed and assaulted employees, and threatened to stalk and kill representatives. In June and July, Social Security staffers and customers

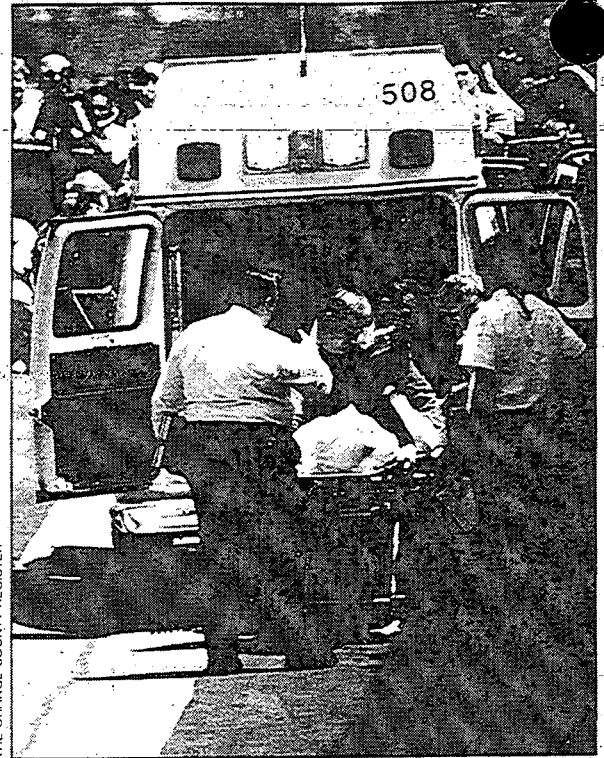
were held hostage in offices in Santa Cruz, Calif., and Pasadena, Texas.

"I think people are more desperate. It seems people are more aggressive than they were and more willing to challenge government," says Ron Rutkowski, manager of the Utica, N.Y., SSA office and head of the National Council of Social Security Management Associations' New York Region.

Managers say problems in walk-in offices have increased noticeably since drug addicts and alcoholics on disability-related Supplemental Security Income (SSI) received benefit cutoff notices in June. "We've had a lot of disruptive claimants shouting, occasionally cursing, most commonly tied to no longer being eligible for benefits or checks being late," says Rosemary Martelli, SSA district manager in San Jose, Calif.

"The frequency, if not the intensity, of incidents has increased significantly in the last year, in my opinion, as a result of the drug and alcohol legislation." The agency beefed up security in most offices this year when the notices went out, and SSA is discussing further measures as it looks ahead to drug and alcohol benefit cutoffs in January. At that time, about one-fourth of alcoholics and addicts currently on SSI rolls are expected to drop off.

SSA has been meeting with its union, the American Federation of Government Employees, to prepare for additional SSI cutoffs resulting from welfare reform. In January, the agency will begin notifying parents of some children on disability SSI that the youngsters no longer qualify. Tighter rules disqualify children with "what some people consider more mild behavioral problems,"



In May 1993, in Dana Point, Calif., the postal service was hit again by murder.

### Prevention Measures for Organizations

- Pick a crisis management team to assess all threats and set traumatic response policy.
- Survey attitudes, procedures, security systems, conflict resolution and grievance procedures, job design, office layout, safety hazards, past violence and violence readiness.
- Report violence vulnerability to senior managers, brief them about the potential for future violence and its costs, get their written commitment to prevention.
- Set anti-violence policies and procedures stating all threats will be taken seriously and are grounds for dismissal.
- Inform employees about anti-violence procedures, including a means for reporting threats without fear of reprisal.
- Immediately investigate all threats and correct all unsafe conditions.
- Train all employees to recognize hazards, deal with emotionally charged situations, prevent assault and rape, handle disgruntled customers, manage stress and anger, and follow procedures for firings, layoffs and emergencies.
- Develop relationships with in-house and local police, legal counsel, employee assistance providers, crisis counselors and public affairs officers.
- Have a trauma response team.
- Control access to the workplace. Consider having guards present, installing alarms and panic buttons and setting up a buddy system.

Source: Violence Prevention Counselor Anthony Baron

Jan. 10, 1996, Albuquerque, N.M.  
An outpatient of the Veterans Affairs hospital shoots and kills an unarmed hospital police officer.

March 12, 1996, Kansas City, Mo.  
5,600 federal employees evacuated from the Richard Bolling Building after local police receive a bomb threat.

says SSA spokesman Thomas Margena. Some 185,000 children will be cut off. Then, in March 1997, approximately 500,000 noncitizens legally in the United States will be told they no longer are eligible for SSI. Most of those whose benefits are to end are poor and rely heavily on SSI. Many managers expect a desperate and angry response.

Dealing with unhappy claimants and the threat of violence takes a toll on SSA employees, but so does the radical change in their role. "This will be the first time where

### A Taxing Toll

Violent incidents reported by IRS employees.

Fiscal Year	Assaults	Verbal Threats
1990	37	735
1991	39	675
1992	41	837*
1993	33	738
1994	28	640
1995	29	825

\*A change in reporting procedures may have been partially responsible for large 1992 increase.

Source: IRS

March 15, 1996, Eager, Ariz.

A Forest Service employee says he is roughed up while being ejected from a land movement activists meeting featuring a speaker who urges violent resistance to federal authority over public lands. The employee files suit June 3 charging assault and battery.



## Trouble at Home Can Follow Employees to Work

The estranged partner of a Social Security Administration employee shot his way into the East New York SSA office in May, teaching managers and employees a fast and bloody lesson about the danger of domestic violence spilling over at work. The fact that Social Security had done the right thing in response to the employee's fears—transferring her to a different office just the day before the incident—made the episode all the more tragic.

The gunman—shot dead by police after firing at them—did not shoot anyone, but the incident shook employees, many of whom knew and had socialized with him. Social Security managers sought to salvage some good from the incident by widely disseminating the lessons they learned, but domestic violence remains a difficult and dangerous matter for many federal managers and employees.

In October 1995, President Clinton ordered agencies to create programs to promote employee awareness of domestic violence and provide resources to victims. "Domestic violence is not a private, family dispute that affects only the people involved," Clinton wrote. It "affects us all, regardless of race, income or age . . . it means higher health care costs, increased absenteeism, and declining productivity. It destroys family relationships and lives."

The vast majority of adult domestic vio-

lence victims are women targeted by men, though violence can occur between housemates, relatives or same-sex partners. More than 40 percent of all women murdered die at the hands of an intimate friend or partner. Women also are more likely than men to be attacked at work by someone they know, according to the Justice Department.

Family violence presents two key problems for federal managers: helping the victims and preventing spillover at work. Here are some tips for resolving them:

- Don't ignore signs of abuse in a colleague. Say what you've noticed, ask whether the person needs help and encourage him or her to contact the employee assistance program.
- If you're a manager approached by an employee fearing violence, ask questions. Find out if there's a history of violence at home and if so, what kind. Ask whether the perpetrator has weapons, has committed crimes or abuses drugs or alcohol. Ask if the employee is afraid because of a specific event such as having moved out or receiving a court order of protection. See if she or he would be willing to talk with the EAP and allow the manager to inform other employees of the situation.
- Find out whether the perpetrator knows where the employee works, has visited the office, or knows other staffers. Ask for a

photograph of the person.

- Using the information gathered, inform security staffers, arrange flexible work hours if the victim needs them and consider transferring the person.
- Discuss with agency legal counsel under what conditions other employees need to be told a colleague may be in danger.

The East New York incident drove home several lessons about workplace violence. Thanks to a building guard's signal, the office manager was able to get employees out of the back office before the gunman shot his way in from the reception area. The experience showed the importance of thinking ahead about safety signals, evacuation, office layouts and furniture. "We were fortunate not to have modular furniture so the manager could see the guard," says Paul Doersam, executive officer to New York Regional Social Security Commissioner Beatrice Disman. "Modular furniture makes the place like a maze. We pay more attention to dead ends, clear routes of egress. All offices in the region are to conduct evacuation drills."

Disman went immediately to the scene after the incident, taking with her Liz Ojakian, director of the employee assistance program for federal agencies in New York. Ojakian urges employees and managers to begin talking about domestic violence before trouble erupts.

many of our employees will have to deal with a cut in benefits," Margenau says. In the past, most new legislation expanded Social Security rolls. "If you were hired to process payments and now your job is going to be telling people there ain't no Santa Claus, it can't help but affect people," adds Don Seatter, SSA district manager in South Carolina and president of the SSA Management Associations Council.

April 5, 1996, Texas  
Tax protester Charles Ray Polk is convicted and sentenced to 20 years in prison for attempting to blow up the Austin IRS Service Center.

April 12, 1996, Vacaville, Calif.  
A Labor Department mine inspector and his wife are injured when a bomb explodes in a pickup truck in which they were riding. Eight hours before, the Labor Department office had received a telephoned death threat.

### Location, Location, Location

It's not only agencies' missions that place employees in the line of fire, it's their location, as well. Disputes over land use are pitting federal workers against ranchers and local officials in the West. Street crime is encroaching on federal facilities located in

#### How to Handle a Bomb Threat

- Keep calm. Keep talking. Don't hang up.
- Signal a co-worker to get on an extension.
- Ask the caller to repeat the message.
- Write it down. Repeat questions, if necessary.
- Ask where the bomb is and when it will go off.
- Listen for background noises and write down a description.
- Write down whether it's a man or woman, pitch of voice, accent, anything else you hear.
- Try to get a name, location, telephone number.
- Signal a co-worker immediately to call the Federal Protective Service, a contract guard, or the local police.
- Notify your supervisor.

high-crime areas. Employees' cars are stolen; they stumble upon drug deals in agency parking lots. The Social Security Administration has even published a handbook telling workers how to avoid becoming carjacking victims.

Even off site, workers are in danger. "I've consulted with [IRS]. Their people get attacked—the people who go out to place

#### Who Commits Violence at Veterans Affairs

Violent Incidents	Employee to employee	Non-employee to employee	Total
1993	219	1,429	1,648
1994	188	1,314	1,502
1995	221	1,330	1,551

Source: Veterans Affairs Department.

May 20, 1996, Laredo, Texas  
An explosive device blows out the windows in Walker Plaza, a building housing FBI offices. Security is increased in federal offices in Texas, Oklahoma, Louisiana, New Mexico and Arkansas.

## Who Can You Call for Help

Here's a list of workplace violence prevention resources for agency officials:

"Security in the Workplace: Improving the Safety of Federal Employees" is available in bulk quantities for free from the U.S. Marshals Service at (202) 307-9065.

Get "Combating Workplace Violence: Guidelines for Employers and Law Enforcement" from the International Associations of Chiefs of Police, (703) 836-6767, ext. 218.

The Occupational Health and Safety Administration's "Guidelines for Preventing Workplace Violence for Health Care and Social Workers" is available through the Government Printing Office at (202) 512-1800. The order number is: 029-016-00172-7.

To get "Violence in the Workplace: Risk Factors and Prevention Strategies," NIOSH Current Intelligence Bulletin No. 57 (June 1996), call (800) 35NIOSH Ask for Publication No. 96-100.

The National Criminal Justice Reference Service offers a variety of publications about workplace violence. Call (800) 851-3420.

For information and guidebooks on preventing workplace violence and theft contact your local Federal Protective Service division. The Washington, D.C., division can be reached at (202) 690-9632.

The Family Violence Prevention Fund runs the National Workplace Violence Resource Center on Domestic Violence, which provides employers' guides and action kits for reducing domestic violence spillover. Call (415) 252-8900.

The New York Federal Executive Board guidebook, "Domestic Violence: Finding Safety and Support" is available to New York area federal agency offices. It also can be reprinted by other agencies. Call (212) 264-6262.

liens, handle nonpayment of taxes," Masi says. Letter carriers in the Los Angeles area are robbed so often that the postal service employee assistance program there runs support groups for crime victims. "We're down to 100-plus robberies a year; we were up to 200," says Los Angeles postal EAP coordinator David Parker. "They're almost always robbed at gunpoint. For some it's their third or fourth time."

Crimes are also growing more common at Veterans Affairs Department medical centers and cemeteries, according to John Baffa, the VA's deputy assistant secretary for security and law enforcement. VA cemeteries are no longer open 24 hours a day due to crime problems, Baffa says. "If you want to go someplace quiet where there's not a lot of traffic, you'd go to a cemetery." Police have caught people defacing grave markers and stealing the brass plates from them.

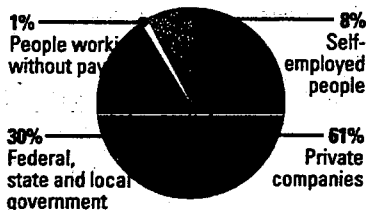
VA health care workers

### Serious Crimes in Federal Buildings 1995

Homicide	0
Rape	2
Robbery	52
Aggravated Assault	109
Vandalism	1284
Burglary	321
Larceny	4697
Motor Vehicle Theft	231
Arson	19
Simple Assault	545
Bomb Threats	764
Weapons Violations	549
Miscellaneous Offenses	2208
<b>Total</b>	<b>10,816</b>

Source: Federal Protective Service

### Where Workplace Violence Happens



threats. All we're doing is getting the overflow of what's going on in the community surrounding us. The biggest problem is people who shouldn't be there. It's not the employees, it's not the patients, it's the environment."

Workers with the Forest Service, the National Park Service and the Bureau of Land Management report similar problems. More and more visitors to national parks, forests and refuges engage in criminal activities. Public lands are often used for illegally cultivating marijuana, for example. Some growers use booby traps and weapons to protect their crops from rangers and law officers.

## Anti-Government Fervor

In recent years, ranchers, miners, county officials and right-wing militia members have brought new forms of violence to Western states where the federal government owns vast expanses of land. Western counties passed ordinances asserting that they, not Washington, controlled such lands. Local officials and land users cited these ordinances as they threatened federal land managers, disobeyed their orders and barred them from federal lands. Forest Service offices were bombed in New Mexico and Arizona; fires were set at Bureau of Land Management facilities in California and Nevada; a Labor Department mine inspector and his wife were injured in a car bombing in California.

The actions of those in the land movement and right-wing militias "all to a different intensity come from some wellspring of anti-government fervor," says Peter Coppelman, the Justice Department's deputy assistant attorney general for environment and natural resources. A two-pronged assault by Justice officials on the county supremacy movement seems to have reduced the incidents. The department won federal and state court rulings against the ordinances and brought civil actions against those who conducted illegal activities on federal land.

July 1996, Washington, D.C. The General Services Administration proposes to eliminate 360 parking places to improve security at 19 federal buildings.

June 11, 1996, Santa Cruz, Calif. A homeless, mentally ill Social Security recipient barricades the entrance to the SSA office and threatens to blow up the building. He leaves the building after it is evacuated and is arrested outside.

July 1, 1996, Phoenix, Ariz. A dozen members of the Viper Militia are charged with teaching about explosives and techniques in civil disorder and unlawful possession of weapons. The group made videotapes about blowing up government buildings and discussed tracking down families of federal agents, investigators say.

Oct. 9, 1996, Union Gap, Wash.

FBI arrests three men suspected in a series of bombings and bank robberies in the Spokane area this year. Notes from an anti-government, white supremacist group, the Phineas Priesthood, were left after the attacks during which a gunman shouted support for the anti-government Freemen, then under FBI siege in Montana.

Oct. 11, 1996, Clarksburg, W.Va. FBI arrests five members of the West Virginia Mountaineer Militia on charges they planned to blow up the FBI's national fingerprint records complex in Clarksburg.

Nevertheless, anti-government threats continue. In October, federal agents and local police arrested five members of the West Virginia Mountaineer Militia on charges they planned to blow up the FBI's national fingerprint records complex. Just days earlier, officers and agents took into custody three men suspected in bombings and bank robberies near Spokane, Wash. Notes from the Phineas Priesthood, an anti-government, white supremacist group, were left at the crime scenes. Several IRS service centers also have received bomb threats in the past year.

### What Managers Can and Can't Do

Federal managers can do little to prevent political violence and must leave such cases to law enforcement agencies. The Justice Department has formed a task force including members of its Criminal, Civil Rights, Environment and Tax divisions as well as U.S. attorneys and the FBI to respond to domestic terrorism and the threat to federal employees. The Federal Protective Service significantly tightened federal building security after the Oklahoma City bombing. FPS and the U.S. Marshals Service publish handbooks and advise agencies and employees about reducing the spillover of street crime into federal facilities, handling bomb threats and preventing office thefts.

Managers can assist law enforcement officers by making them familiar with office settings, routines and clientele. Encourage officers to visit, experts advise. Let them know when vulnerable clients, such as elderly or disabled people, are scheduled for appointments. Get to know officers and ask them to regularly conduct crime prevention training and office reviews.

When dealing with workplace violence, agencies often fail to take advantage of institutional violence-prevention knowledge and expertise, says Mary Tyler, a member of the Office of Personnel Management's interagency working group on workplace violence. Tyler addressed an Oct. 18 workplace and domestic violence conference hosted by the Labor Department in Washington. "Most organizations have most of what they need but they don't know it, because it requires cooperation between groups that don't really talk to each other—for example, medical and security people, or managers who don't talk with the employee assistance program." Build an anti-violence network within your agency, Tyler advised. "Rather than hiring a consultant, make friends with your colleagues, identify what they know. Don't pay a consultant for a speech the chief of security could have done."

Tyler said managers and executives

should avoid getting caught up in the emotion surrounding sensational acts of workplace violence such as murders and bombings. Instead they should survey the real risks in the offices they run. Tyler suggested asking questions like these: "Is our mission unpopular? Do our employees visit people's homes? Are we in a high-crime neighborhood? Abusive spouses can come into the workplace; are we prepared?"

Managers who follow Tyler's advice often are surprised at the results. "The most com-

mon problem is the workplace bully," Tyler said. "They're frightening their colleagues, but no one knows what to do." The answer, she said, isn't fancy videos, lectures or

*continued on page 52*

### WEB LINKS

For more information and resources about preventing workplace violence, go to the *Government Executive* Web site and click on "Toolbox."

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tancing can only be done through less reliance on the federal budget, and more reliance on outside income, such as user fees. But Congress is unhappy with the concept of user fees because it makes agencies more independent.

I envision a successful government organization that would rely totally on user fees (no appropriated funds). It is only at this point where the true customers' (taxpayers') wishes can be dominant. It is also at this point that the government organization can realize its ultimate goal of independence by becoming a private sector organization. This is true downsizing of government.

James Champy describes several changed organizations which he cites as evidence of progress toward reinvention. In reality these are examples of stagnation. The government bureaucracy is very adept at defeating change strategies. When forced into "change," the bureaucracy makes peripheral changes which appear to be compliance but instead are a measured type of resistance. David Osborne called them "islands of innovation in a sea of bureaucracy." Like true islands they are isolated from the main organization to assure that their new cultural

norms do not infect the organization as a whole. The bureaucratic strategy is to isolate them so that when this exercise is over the organization can remove the "island" and go back to "business as usual."

These examples do not show evidence of organization-wide cultural changes which would be required for long-term change.

David Osborne does not take into consideration the fact that political appointees may want change, but their career managers do not. Why would a careerist want to change a system in which they already succeed and supplant it with an organization in which they may not succeed? The strategy of the career manager is then to create these "islands of innovation" so that when the political appointees leave the organization will operate as it always has.

You may think my analysis of these articles and strategies is cynical, but look at all of the change rhetoric of the past 50 years, and the results. Nothing has changed. Reinvention is seen by the career bureaucrats as just another storm to weather.

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## VIOLENCE

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teaching employees a profile of the violence-prone person. Most experts warn against profiles, which usually describe male loners, who are intense, served in the military, like guns and are in their 40s. "If we applied the profile to our 800,000 employees, probably 120,000 would fit it," said Bradley Johnson, postal service employee relations specialist, who also spoke at the Labor Department conference.

"Workplace violence should not become an excuse for witch hunting," wrote Tia Schneider Denenberg and Richard Denenberg in "Dispute Resolution and Workplace Violence," an article in the Jan.-March 1996 issue of *Dispute Resolution Journal*. "The focus must be kept strictly on behavior, rather than suspicions, psychiatric diagnoses, or off-putting personal characteristics." The best way to keep the focus on behavior is basic managers' training, Tyler emphasized. "[Managers] are supposed to manage performance problems," she said. "If an employee's behavior changes suddenly, encourage the employee to get help from the [employee assistance program]. You don't have to diagnose the problem. That very basic stuff would prevent most workplace violence."

Executives and managers should focus not on quickly setting violence-prevention policies, but on slowly surveying risks, communicating with colleagues, making sure supervisors do their jobs, ensuring employees know to whom to report threats and problems, and guaranteeing action on those reports. After those steps have been taken, it's time to roll out a high-profile, common-sense anti-violence policy.

As for the possibility of violence during downsizing, Tyler believes the answer is humane handling of layoffs. "Productive, longtime employees are not going to start attacking us, and if we treat them like criminals, it's just going to add to their pain." The violence potential will be low, she believes, if managers look after the job-finding and emotional needs of downsizing victims. "You can't take a scared, upset person and throw them at a computer," Tyler said. OPM assigns peer counselors to each person losing a job. These mentors check in daily, encouraging, providing resources and consoling. Tyler also urged extra attention for downsizing survivors: special training in working in teams and getting along with new people, for example. "A good workplace violence program must build on organizational strengths, pull in everybody so they all know what to do, and focus on community, communication and respect for individuals." □

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## Stress Management for Caregivers

By Marlene A. Young, Ph.D., J.D.  
National Organization for Victim Assistance

Researchers and the popular press have given much attention to stress in the workplace. The general conclusion is that almost every type of employment has characteristics that place major, potentially-debilitating, stresses on employees and their employer. Waiters and waitresses, secretaries, flight attendants, pilots, teachers, law enforcement officers, correctional personnel, lawyers, doctors, farmers, and so forth, have all been identified as having high-risk professions.

Similarly, most human service caregivers — mental health professionals, trauma counselors, crisis intervenors, and others — feel they are exposed to extreme stressors in their everyday work.

Labeling a certain kind of job as inherently stressful may open the door to some constructive management interventions, but one important caution should be addressed at the outset: one person's "distress" may be another's "euphoric stress," to use Hans Selye's terms. No sensible analysis of stress in any profession should be premised on the notion that stress, per se, is a bad thing. At the same time, the very thing that makes a profession stimulating can at times be suddenly overwhelming, or it may become cumulatively more than a person can manage.

Thus, in any effort to mitigate against the harmful effects of job-related stress, it may be useful to first understand the unique qualities of the stresses to which caregivers are exposed, and then to develop a plan to keep those stresses from inflicting extreme blows to caregivers, or causing them long-term stress reactions. To simplify the discussion that follows, we will use the term "stress" in its negative connotation.

### I. Factors that contribute to stress of caregivers.

#### A. General factors of stress in the workplace.

While there are unique issues of stress in the caregiving professions, most caregivers are subject to common sources of workplace stress that affect most of us in today's world. These common stressors include the following.

##### 1. Too much work and too little time to do it.

Most professionals complain that there is simply too much work to do. No matter how much they plan and manage their time, it seems that they never get caught up. This is particularly true of people who work in the crisis field. Not only do they have ongoing, everyday work assignments, they must be prepared to put all of them aside to respond to a crisis that may last for a day or more. The "business-as-usual" tasks can be put on hold but they don't go away, nor do their associated deadlines. So when the caregivers return to those tasks, they are faced with a greater burden of "catch-up."

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### 2. Inability to set your own pace or priorities.

Many professionals feel extraordinary pressure because they cannot control what they do or when they do it. To a certain extent the choice of a profession is an exertion of control. But, at every level of employment status, other influences often control day-to-day activities. The secretary is given ongoing assignments of filing, telephone reception, handling the mail, and so on, and develops a routine for accomplishing these tasks.

But disrupt that routine with a an extra heavy mailing or a day of an extraordinary number of telephone calls, then the filing begins to stack up — which is just when the secretary's supervisor walks in with an emergency requiring them all to produce an urgent report over the next day. The imposition of the demands of others have caused the secretary considerable stress. For middle managers, the unexpected, time-consuming demands come from both their subordinates and their supervisors. Executives tend to get their external demands from their constituencies or, as is common in the human services, from their budgetary authorities. No one is immune; the farmer, the archetype of independence, is in fact something of a slave to the capricious demands of the weather or of the incessant demands of the farm's crops and livestock.

### 3. Nobody loves me or nobody notices me.

There are some professionals who feel adequately appreciated in their work. But, many are not satisfied by the level or the source of appreciation. Some are frustrated because no one ever acknowledges their contributions to their organization or thanks them for them. Some are frustrated because they are given no public recognition for their work. Some are frustrated because the people they work with don't seem to like or respect them as much as they would like. Some are frustrated even though they have received acknowledgment and recognition because it hasn't been from an individual or institution that they respect.

### 4. Living in a stagnant pond.

Often professionals find themselves "trapped" in a job that requires them to do the same thing over and over again. They feel that they are not given a chance to expand their skills, to learn new things, and to move on to new or more interesting tasks. This is particularly true where there is no natural "career ladder" in the traditional sense. In the victim service field, for instance, the career ladder has been truncated for a number of years due to the newness of the field and the profession. Victim service counselors or advocates could look forward to remaining in that position for the whole of their career unless they graduated to become a program director. Once they became program directors, the ladder narrowed to almost nothing. In recent years, with the expansion of services, an advocate may move to a mid-management position or an assistant director of a satellite office of a large city agency prior to becoming a deputy director of an agency,

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then a program director, then perhaps a training officer for the statewide network or statewide office, and then a statewide director of victim services. In addition, there has been an increase in the potential positions available on a national level. However, the career ladder is not the only answer to boredom. Increasing the level of training, education, career opportunities such as more travel or developing innovative programs are also an antidotes.

### **5. The blizzard of paper.**

Most professionals are plagued with paperwork blues. While technology is rapidly turning this into the computer blues, the essence is the same. Documentation of time worked, type of work done, type of clients served, numbers of services provided, types of services provided and so on can take as much as 20% of a professional's time depending upon the agency, organization or funding source that she or he is working for. A director of a victim service program may find that virtually all of his or her time is spent in fundraising, grant writing, grant compliance, budgeting, and satisfying audit requirements. This is particularly true in smaller agencies where staff is very limited.

### **6. "I ain't got no money."**

This stress comes from low salaries and limited funding for an agency. It is true of the human service field as a whole — in both the public and private sphere. Many victim service professionals suffer from lack of financial support. Despite the federal Victims of Crime Act and, for many, state subsidies, many programs are under-funded, subject to roller-coaster funding from year-to-year, lack a steady funding base, must rely on volunteers to provide even basic services, and pay their staffs below market salaries. The result is that crisis workers may feel compelled to use their own monies to help victims in need; may carry two jobs to make ends meet; or may find it necessary, despite their commitment to victim services, to leave the field. This is a source of real and painful stress.

### **7. "I can't stand anybody around here!"**

This is often a source of great friction in the workplace and particularly in a field which attracts many people who are very assertive, energetic, and determined — the victim service field. Egos tend to clash. Differences in work styles, competition for recognition, and battles over priorities all contribute to the conflict in relationships. While some colleagues may develop very close friendships, others draw farther and farther apart. Often victim service providers must work in close quarters due to lack of workspace and hence their everyday habits may grate on each other. People who leave coffee cups unclean anger people prone to neatness. Messy desks may irritate the organized colleague. Loud voices may distract others who are soft-spoken. Personalities that would be tolerable if encountered in a social setting may not translate well to the work-

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place. All such personal encounters will cause severe stress if prolonged and indefinite.

### **B. Theoretical analyses of unique stress reactions of caregivers.**

#### **1. Theory of Burn-Out**

##### **a. Burn-out is a term that has been thrown around carelessly by many professionals.**

Employees who are burned-out may become dysfunctional at their jobs or quit.

Weariness, frustration or boredom may be symptomatic of burn-out but are not

synonymous with the state of burn-out. Burn-out usually occurs over a period of

years during which the caregivers' goals are consistently higher than can be achieved realistically.

The initial concept of burn-out came from the corrections profession where caregivers in their initial years often have visions and dreams of rehabilitating their clients. As years go on and they witness the high rates of recidivism, they increasingly grow disillusioned, and some finally give-up with feelings of failure and despair.

The term also is applied legitimately to the law enforcement profession, where individuals often become law enforcement officers with personal goals of helping others and preventing crime. As crime rises and they are exposed to the misery and mayhem of criminal life, they, too can become hopeless and burn-out.

It is less likely to arise with victim service providers for one salient reason.

While most victim service professionals are confronted with the agony of victimization, they also are exposed to the triumph of courage in the survivors of crime who often demonstrate great strength and compassion in their survivorship.

##### **b. Contributing factors to the state of burn-out usually include**

i. **Professional isolation:** Not only does the caregiver feel frustrated in the achievement of his or her goals, he or she feels alone in that frustration. Often the professional culture is an inhibitor to the communication of complaints, or stress reactions, or frustrations, so there is no opportunity to find-out the commonalities among colleagues. It is only recent years that peer support groups have begun to find favor in some law enforcement and corrections communities. These groups often have profound influence upon those who participate because the members realize that they are not alone.

ii. **Emotional drain of providing continuing empathy:** The caregiver is called upon to provide support, understanding, and assistance to the client. In many cases, this involves trying to "put yourself in the other person's shoes" while in the caregiving role. The exposure to pain, heartache, anger, and other extreme emotions

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- over time is wearing. If the caregiver carries a large or difficult caseload, the emotional drain will cause physical drain as well.
- iii. **Ambiguous successes:** This refers to the problem of measuring the effectiveness of one's own services. In the corrections field, it might be illustrated by a case where a caregiver has worked with a young offender who had murdered someone. She or he has spent countless hours talking with him, providing case counseling, supporting him in education and work sessions, and so forth. He is released. He is later arrested again, although this time, he has not committed a murder, he has committed a burglary. Is that a measure of success? Another example can be drawn from the field of domestic violence. What is a successful intervention with a battered woman? Is it successful if the battered woman leaves her home and goes to a shelter? Is it successful if she finally leaves her home for good? How is success measured if she is then killed?
- iv. **Non-reciprocated giving and attentiveness:** This factor is related to the emotional drain of giving empathy. But it applies to more than simply the provision of counseling and emotional support to a client. Often caregivers find themselves providing care to the world. They don't allow themselves to receive support from others, even if it is offered. And, often it isn't offered. There is a stigma against seeing caregivers in certain professions as needing attention or care because it is seen as a weakness or failure of character. While this has long been acknowledged as a problem in corrections and law enforcement, there is little open acknowledgment of such a stigma among victim service providers. But often these professionals, particularly if they are crisis intervenors, live at least as much fear of stigma if not more if they acknowledge a need for support. It seems the reasons for this are twofold. They often work side-by-side law enforcement officers and feel that they will lose credibility if they show weakness. Second, they think that since they are trained in dealing with other people's crisis and stress they should be strong enough to handle their own — on their own.
- v. **Failure to live up to one's own goals:** As indicated in the general description of burn-out, this is perhaps the most dominating factor in this state. The sense of personal failure can be overwhelming. There are several underlying causes for the intensity of feeling that often surrounds this factor. First, the goals of many professionals may be unrealistic. Second, they may not be aware of their personal goals until they confront the stress reaction of burn-out and are forced to focus on why they feel so helpless and frustrated. And, third, there is a heavy emotional burden encountered when one must restructure and redefine personal goals and purpose. This is particularly true if, in that redefinition, one gives up a career or job that she or he originally loved.

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### 2. Theory of Countertransference

a. Countertransference is said to have occurred when the caregiver's own scars and injuries are revisited due to the sights, sounds, stories, or issues raised by the victims/survivors. The theory has been applied primarily to three groups of caregivers. Viet Nam War veterans who have become mental health professionals and now serve Viet Nam War veterans may find that they suffer from countertransference. Listening to the battle tales of their brethren may awake in them their own intrusive thoughts or nightmares. They may find they had not processed their own life experience enough to hear such stories and might need to step back from their client. Another group that some have applied the theory to is incest survivors. There have been some incest counselors who remembered their own incest experience as a result of doing incest counseling. Finally, the theory has been used with survivors of the Holocaust. The stories of such survivors have triggered intense memories of the therapist's own concentration camp experiences. However, while these cases are experience specific in the countertransference phenomena, some would argue that countertransference can also occur between victims/survivors who have not had similar victimization experiences.

### b. Contributing factors.

- i. **Recent trauma in the caregiver's life:** For most people, a recent trauma will trigger thoughts about previous trauma. It is not unusual for a victim in the aftermath of a rape to spend a great deal of time thinking about the death of her child five years ago. In the aftermath of community disaster, crisis counselors often find that in group debriefings many victims talk about other traumatic events in their lives and in the lives of the community itself. These events do not have to be similar to the one at hand, they merely need to be traumatic.
- ii. **Similarities between victim and caregiver:** The closer the caregiver resembles the victim in terms of personal attributes, the more likely the phenomenon of countertransference will be experienced. It is natural that people identify with others who look like them, are the same age, gender, racial background, have the same family status, the same profession, the same educational level and so forth. Indeed, these different attributes all form a bond of community as surely as a geographic community is formed by the bond of proximity. Such bondings will enable the caregiver to form a speedier relationship with the victim, but also makes the caregiver more vulnerable to countertransference.
- iii. **Physical and emotional fatigue:** When people are tired they are more likely to react to something emotionally rather than cognitively. For the crisis intervenor this adds another dimension of vulnerability to countertransference, because most crisis intervenors end up providing intervention at times when they are fatigued.

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in the middle of the night at a crime scene; in a community crisis where they have been working for twenty-four hours without a break; or simply because so many professionals in the victim service field have been working 60+ hours a week prior to a crisis situation.

### 3. Constructivist Self-Development Theory

- a. Under this theory, in response to the continuing stress of working with victims and survivors, caregivers experience a lasting alteration in their cognitive assumptions that in turn has a significant impact on their feelings, relationships and life styles. Some examples of those changes in assumptions and the resulting impact are the following.
  - i. The assumption of trust in other people is altered so that the caregiver now assumes an attitude of distrust. Strangers and others are now expected to prove their trustworthiness rather than being presumed to be trustworthy.

*Example:* A caregiver who has worked with incest victims or victims of child sexual assault may see a man with a small girl sitting in his lap in a park and wonder whether he has been victimizing her rather than assuming she is his daughter and they are having a healthy affectionate relationship.
  - ii. The assumption of being safe in this world is altered so that fear of violence may control the caregiver's behavior.

*Example:* A caregiver who has worked with burglary victims — particularly those who have been in their homes while the burglary occurred and were also assaulted or injured — may put locks on the doors, bars on the windows, buy alarm systems, keep guns in the homes and so forth, since he or she now assumes that one is never safe anywhere — even your own home.
  - iii. The assumption of an individual's control over their life and action may give way to a sense of being out of control or lacking control over daily life. A caregiver may feel an increasing sense of disorganization and inability to function or make decisions because she or he doesn't believe his or her actions or decisions affect the course of life. On the other hand, a caregiver may become more rigid and inflexible in a effort to ensure control over minor issues and things, since control over in large matters is impossible to achieve. Or a caregiver may begin to take extraordinary risks because she or he assumes that nothing she or he does will make a difference to the course of life anyway.

*Example:* A crisis responder who has been exposed to many disaster scenes may take up sky diving or bungee cord jumping. A crisis intervenor who has been to many crime scenes may insist that formal protocols and procedures be



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designated and enforced in the office setting that deal with such things as the routing of mail, coffee making and so forth because these things are controllable.

- iv. The assumption of the value of the right to freedom may change to a belief in limits and restrictions on freedom. This change in perspective has an interesting political implication. It has been observed by some that many of the more senior victim service providers in the victims movement have changed their beliefs from liberal views on sentencing, the death penalty, and other offender treatment issues to more conservative views. This change seems to emanate not from a desire for revenge, retribution or punishment against an offender, but rather from a feeling that the right to freedom can not include the freedom to hurt others. If you use it to hurt or kill the innocent, then you have forfeited that right to freedom.
- v. The assumption that others deserve respect or esteem may change to an assumption that there are cruel and evil people in the world. This can affect the attitudes of caregivers such that they interpret minor remarks or actions of others as being mean or malicious. They can see the world as a dangerous place. The caregiver feels she or he must be constantly on guard and constantly wary.

*Example:* A caregiver who has altered his or her assumptions in this manner may tend to withdraw from social gatherings and from social activities. The caregiver may become increasingly isolated and lonely.

- vi. Natural desires for human intimacy may be tainted by feelings of stigma and estrangement. The stigma attached to the victim or survivors who are served may be felt by the caregiver to affect how others relate to him or her. Because the caregiver is unable to explain the anguish of the victim or unwilling to explain the pain which she or he has confronted, few people can understand what the caregiver is dealing with. This is complicated by the fact that most members of the general public don't want to hear victimization stories from either the victim or a victim counselor.

*Example:* Survivors of homicide victims often talk of how their friendship circle from before the homicide is narrowed or destroyed because of the fact that people don't want to hear the story. Counselors of survivors of homicide victims experience a similar phenomena if they explain what they do to friends or acquaintances not in victim services. In both cases, new friendship networks may be created but the stigmatization and feelings of isolation from the "real" world remain.

### b. Contributing factors

- i. Constant exposure to sudden, random, arbitrary disaster is a key issue in the constructivist redevelopment theory on the impact of this vicarious victimization

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of the caregiver.

- ii. Constant exposure to events that the general public would consider improbable or impossible also reinforces this type of stress reaction.
- iii. The lack of positive alternative exposure to human good and world order will increase the likelihood of changes in assumptions.
- iv. The lack of caring, supportive resources is also important.

### **II. Model Plan for Dealing with the Stress of Caregivers: Overview**

This model plan has been designed to help caregivers deal with their unique stressors. It is divided into three parts. This section deals with the general background to stress management for caregivers. The second section will address dealing with stress in the workplace. The final section will discuss stress management techniques specific to stress derived from working with victims of crime and crises.

True stress management for everyone begins with knowing where you want to be and who you want to be.

- A. Consciously think through your meaning or purpose in life. Most people rarely rationally reach an answer to the existential question of "why do I exist?" but with some thought can arrive at a reasonable answer to the proposition, "since I do exist, what will make that existence meaningful." Examples of reasons for being include:
  1. Loving and serving the God I believe in;
  2. Loving and serving humanity;
  3. Perpetuating the human race;
  4. Reducing pain and suffering;
  5. Searching for happiness;
  6. Pursuing knowledge and wisdom.
- B. Think about what it is that you want to do to live a meaningful life? Sort out lifetime priorities. Recognize that you may not accomplish the goals because of external forces, but it helps to understand at this point in time what your priorities are today. In some cultures, this exercise is unnecessary because the answers are designated by tradition, family, community and so forth. But, with ever closer contact between different cultures, more and more individuals will find cognitive dissonance arising because of the differences between what they perceive as expectations of society and their own orientations. Understand that most financial, career, physical, family, social community, spiritual and personal goals can be categorized in connection with any of the above reasons for being. Some questions that will help

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you identify lifetime goals include:

1. How would you like to spend the next five years, if you had the resources to do anything you wanted?
  2. What do you picture a perfect day for yourself five years from now?
  3. What would you do if you knew you would be dead six months from today?
  4. What would your life look like today if you could start from scratch and shape it anyway you wanted it?
- C. Next, look at how you spend your daily life, and examine how closely your activities reflect your sense of purpose or your goals in life.
- D. The more there is a discrepancy, the more likely you will be living under stress.
- E. The first step to stress management is to establish what your underlying meaning system is and to reconcile it with your current activities. This may mean either altering the overall meaning system or changing your activities.
- F. Note: the meaning in life must be constructed by each person as an individual. While this process is particularly important for crisis workers because they are constantly forced to confront such existential questions when they confront random death and misery, it is a relevant process for anyone.

### III. Model Plan for Dealing with the Stress of Caregivers: General Workplace Stress.

- A. What are the most stress factors in your particular job. Using the six items listed below, rate yourself in terms of stress on a scale of 1-10.

Item	<i>Low Stress</i>										<i>High Stress</i>									
1. Work Overload:	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10
2. Lack of Control:	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10
3. No Appreciation:	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10
4. Boredom:	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10
5. Paperwork:	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10
6. Financial Support:	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10
7. Colleague Relations:	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10
8. Other:	1	2	3	4	5	6	7	8	9	10	1	2	3	4	5	6	7	8	9	10

(0-24 = low stress; 25-40 = medium stress; 41-64 = high stress; 64-80 = extraordinary stress)

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### B. Coping with job-related stress. Hints for dealing with potential stressors.

#### 1. Work Overload: Too much work and too little time.

##### *Antidotes:*

- a. Set priorities: keep planning documents that identify your job goals or projects for the year; the monthly time frame for completion of tasks; and weekly deadlines for segments of each task. Prioritize which goals are most important overall and then translate those priorities to a week-long.
- b. Distinguish between long-term projects, medium-length projects, and short-term projects. Break projects into task segments that range from several hours of work at a time, to one hour segments, to several minute segments.
- c. Use time productively. If you have several hours available, turn to the highest priority project with a "several hour" task and work on it. If you have an hour available, work on the highest priority project with an hour task waiting for completion. Keep a list of several minute task segments to be done at any time in between other assignments.
- d. Analyze your work habits and cull out extraneous make-work tasks. Some people need to keep a detailed daily log to remember what they have done. But for those who don't, make a few daily notes on important things. If a simple request can be made by telephone, don't write a letter.
- e. Have an agenda for meetings — know what you need to ask of someone and what you need to tell someone in the meeting. Keep meetings short and to the point.
- f. Keep telephone calls short. Say politely to a caller, "I really wanted a chance to talk to you for a minute about this, but I have only about 5 minutes right now. Perhaps, if we don't cover everything, we can follow-up later." Most of the time, there will be no need of follow-up.
- g. If you are really overloaded with work and not simply wasting time, talk to your boss and let him or her know so that she or he can help you set priorities.

#### 2. Lack of Control: Inability to do what you want to, when you want to.

- a. Accept that you will have interruptions and emergencies. Once you give up the need to have complete control of each day, you will begin to relax.
- b. Avoid being interruption-prone. Being interruption-prone is a little like being accident-prone. Many times the interruptions that you suffer are ones you have contributed to. If you have avoided a telephone call for a week, didn't complain when you finally have to take it and realize that the caller needs something from you tomorrow.

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If you know that your boss or your agency has cyclical needs — such as the publicity needed for Victim Rights Week each year — be prepared in advance and don't look at the additional work as an interruption.

- c. Set schedules for yourself and make others aware of them. If you plan to do research on a certain project for an hour every day, let your office know that you don't want to be interrupted except for an emergency. Unless it is really extraordinary, you can train your colleagues to handle other unexpected events during your other working hours.
- d. Discourage the drop-in interruption. If your boss suddenly wants you to mail out 100 Victim Rights Week announcement before the end of the day. Acknowledge the request and make sure it gets done after you have completed the task you are on at the moment. (And, make sure it does get done.) If it needs to be done in the next 48 hours, assure him/her of compliance and schedule it at the most convenient time. Continue the task you are on.
- e. Request time with your boss to discuss your working style and your work priorities. So long as she knows that your work will be completed, she should relax her tendency to monitor your every move.

### 3. No Appreciation: Nobody loves me or Nobody notices me.

#### *Antidotes*

- a. If you notice others, they will eventually notice you. Nominate your boss for awards or recognitions in his/her job. Praise your colleagues when they do a good job. Bring their work to other people's attention. Give credit to others.
- b. Give yourself rewards. Set your goals and when you accomplish them, acknowledge your efforts to yourself.
- c. Keep others informed of what you are doing. Often, your accomplishments or contributions are overlooked just because no one knows what you are working on.
- d. When you are appreciated, thank the person who noticed what you did.

### 4. Boredom: Living in a stagnant pond.

#### *Antidotes*

- a. Look at your job from a new perspective. What would you see if you were just now taking on the position? How would you explain it to a new employee? As you examine your position in this way, ask yourself, how would others do it differently and how might others do it better?
- b. Think of innovative projects that might enhance your work and make it more fun —

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propose them to your boss.

- c. Think of ways to have fun on the job. In most cases stagnant employees waste time on the job. Use that time to have fun with colleagues or clients.
- d. Take time to think back to when you enjoyed the job and ask yourself why? It is possible that you are bored because you have forgotten your original commitment.
- e. Remember to put effort into being the best employee in that position possible. As Martin Luther King, Jr. said, "If a man is called to be a streetsweeper, he should sweep streets even as Michelangelo painted, or Beethoven composed music, or Shakespeare wrote poetry. He should sweep streets so well that all the hosts of heaven and earth will pause to say, here lived a great streetsweeper who did his job well."

### 5. Paperwork: The blizzard of paper.

#### *Antidotes:*

- a. Get rid of all incoming paper as soon as possible. Stephanie Winston in *The Organized Executive* offers the following system: **Trash it! Refer it! Act on it! Or File it!**
- b. Fill out any organizational forms that are required as soon as possible — daily is best or it will seem overwhelming.
- c. Don't create your own paper chase. A classic rule of research surveying is don't ask questions if you don't know how you'll use the information. Translated to office work: don't create forms if you don't need to track the information.
- d. Keep a reading file for important reading materials but pass other reading material to someone else if you know you won't get to it within a week. (Note: make a note of the title and reference if you want to read it another time.) Go through your reading file once a week. If you haven't read something — read it on the spot or pass it on.

### 6. Financial Support: I ain't got no money.

#### *Antidotes:*

- a. For those individuals and agencies that are working with a bare-bones, barely surviving budget, there is little that can be suggested to relieve this stress. The pain of closing an agency or leaving a job because of money is devastating. The most important thing to remember is to cut your losses as quickly as possible. If you know you are going under, don't hang on and go into impossible debt or cripple yourself financially.
- b. For those individuals and agencies that are managing but need more funding to thrive. It may be helpful to develop new marketing plans or fundraising ideas. But, it is

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prudent to do a waste or loss management study. Even the smallest agency and the lowest salary may suffer from an underestimation of the need for loss control. Loss may stem from negligent use of materials, supplies, or services, to "acceptable" employee acquisition of supplies. Employees are prone to take home pens, paper, pencils and other fungible items. Individuals may be able to manage more thriftily with help on budget control. Some low budget agencies are able to arrange for a pro bono accountant to help employees reach that goal.

- c. For individuals or agencies that have more than adequate budgets, the complaints still exist. But, complaints from these individuals or organizations are usually symptoms of other ailments of the organization, not finances. Finances are the easiest issues to target.

### 7. Colleague Relations: "I can't stand anyone around here!"

#### *Antidotes:*

- a. Look for the positive attributes of colleagues not the negative attributes. Chances are that almost everyone in your organization contributes something worthwhile to the overall mission. Your boss probably sees that, so try to view your colleagues from the standpoint of their contributions.
- b. Ignore the petty stuff. Employment relationships are often like marriages. Indeed, many people spend more time with fellow employees than they do with their significant others. Marital arguments over how a toothpaste tube is squeezed is as ridiculous as an employee argument over who arrives first in the morning or who goes home first at night. Save disagreements over things that may affect the reputation of the agency or your reputation on the job.
- c. Cultivate professional and friendly relationships. You don't have to like everybody to be courteous, cordial and polite. If you do have a friendship with a colleague, remember to leave personal issues at the door.
- d. Don't compete with your colleagues. Work to support them and ask for their support. You can accomplish more as a team than independently. Shine together rather than trying to shine alone.
- e. Try to ignore irritating mannerisms or habits unless they interfere with your health or your work. A person who eats onions and garlic every day at lunch may be unpleasant to talk to in the afternoon, but she or he does little harm. A person who whistles or hums while she or he works may truly be disruptive in a small office.
- f. Be honest and open when there is dissension or a disagreement, but don't become angry, sarcastic, or disrespectful. Listen to the other person and ask him or her to listen to you.

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### IV. Model Plan for Dealing with the Stress of Caregivers: Coping with Stress Caused by Working with Victimization.

#### A. Planning for your *crisis-related* stress in advance.

##### 1. Make the choice of stress.

Some studies have indicated that people who deal best with stressful circumstances are people who have chosen to confront those circumstances with a purpose for that choice. College students, for instance, who chose to attend college and know why they are there do far better under exam stress than those who are attending to satisfy their parents. It is also important that the individual makes an informed choice. So in preparing yourself for the stress of caregiving mentally think through the following statements:

- a. In this job I am preparing myself for surviving chronic, acute trauma.
- b. I have chosen this job knowing that I will constantly be confronting sudden, random, and arbitrary crisis.
- c. I have chosen this job because \_\_\_\_\_. (You must fill in the blank in this latter statement.)

##### 2. Make a self assessment of how you respond to life and crisis. The following is a sample self-assessment quiz. There are no right answers in this assessment. The important thing is to make the assessment in order to plan your responses to a traumatic event.

- a. How do you deal with stress? Stress can be both positive and negative. Even negative stress can be survived and be perceived as a positive stress if you deal with it well. Dr. Hans Selye, one of the foremost authorities on stress reactions and stress management, exhorts: "Live for the stress of life."

- i. Are you Type A or Type B personality? Type A is often categorized as a person who works quickly and intensely. She or he is often emotionally charged and task oriented. Sometimes this person is described as an overachiever because of his or her determination. Popular literature suggests that this person is more likely to have a heart attack than Type B because of his or her inability to slow down.

Type B is usually described as someone who is measured and calm. If Type A is the "hare", Type B can fairly be given the role of the "tortoise." Type B is often more people-oriented than Type A and takes time develop relationships and attachments. Process may be more important to Type B than the accomplishment of a specific task.

With regards to your abilities as a caregiver, it matters little which Type you are. There is a need for qualities of both types in terms of skills. What is impor-



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tant is that you recognize your dominant type in order to adequately structure your response to your own crisis reactions. Type B may emphasize a re-integration with family and friends after a crisis. Type A may be more comfortable getting back to a busy schedule that involves him or her in work activities or play activities.

- ii. No matter which personality type you are, and no matter who you deal with emotional stress, remember your body will respond to crisis situations with physical stress reactions. If you are not moderately physically fit, constant exposure to crisis events can cause physical illness and death.

### **b. How do you see your life history and actions affecting your choice of profession?**

- i. Some people choose to work in crisis situations because of their own background of traumatic experiences. It is not unusual to find that many law enforcement officers, paramedics, firefighters and other rescue workers are Viet Nam veterans. The experience of responding to dangerous circumstances has been translated from wartime to peacetime. Similarly, it is not unusual to find that many victim crisis workers have been victims themselves. Their victimization experience has led them to try to help others. There is no value judgment about that connection, but individuals who fit that description should be aware that they may be susceptible to countertransference in times of stress when dealing with other victims.
- ii. Some people choose to work in crisis situations because of their faith in God and their feeling that this is their mission in doing God's work. That is a valid connection, but individuals who fit that description should be aware that their faith in God may be severely challenged by the misery and sadness they will confront.
- iii. Think through your past and your present direction and see if there is any connection that will help you predict how you might respond in a crisis situation.

### **c. Do you integrate life's components or do you separate them?**

- i. Some people live life best when each set of their significant activities and relationships occupies a separate universe. These are the people who place work hard in the workplace, but when they go home, concentrate entirely on homelife. Their work friends are different than their family friends. Family members and family friends may never meet work friends. They may have other sets of activities and relationships that are also kept discreet — people with whom they exercise; people with whom they vacation and so forth. For these individuals, it may be important for peer support or counseling support to assist them in the aftermath of a crisis, to be provided at work, because they will not be comfortable "taking the crisis home".

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- ii. Other people feel most comfortable with an integrated life style. These individuals mix most aspects of their lives together. They may work in the same workplace as their partners. They may encourage friendships between workplace colleagues and other personal friends. For them, there are few boundaries between one aspect of life and another. For these people, workplace support may not be as important. ~~The intimacy and type of relationship that is held is more critical than the environment in which it takes place~~ They need to analyze who, among their entire network of friends, would be most helpful to them in the aftermath of a crisis. It may be a spouse or a workplace colleague or their church pastor. If peer support sessions are held in the workplace, these people may be reluctant to attend or want to have their support person attend with them.
  - iii. People who are forced to rely on a support system that is inappropriate to their way of dealing with life components will have increased stress.
- d. Does your meaning system or sense of purpose in life conflict with the idea of confronting a crisis situation?
- i. As was mentioned above, having a sense of purpose or consciously understanding your belief in the meaning of life helps anyone face stressful events better.
  - ii. It is particularly important for people who are working with victimization to understand the direct connection between their involvement in crisis caregiving and their overarching sense of purpose. For example, if the central purpose of your life revolves around raising a family and you are involved in a crisis situation which threatens your life, you may cope with the aftermath best if it was also a crisis situation which threatened your family and you were intervening to save or assist them. If, on the other hand, it had nothing to do with your family, you may find yourself questioning your involvement in the life-threatening experience since it was also a purpose-threatening experience.
- e. Do you work best alone or in groups?
- i. This may seem a strange question but is quite relevant to crisis work. Many crisis intervenors and rescue workers are naturally loners. In part, this is because of the sense of the uniqueness of the experience of crisis and the normal reactions of isolation and estrangement. But, in many crisis situations there is a definitive need for teamwork and group activity.
  - ii. For those who enjoy group work, responding to crisis as a part of a working team (law enforcement officers, crisis intervenors, rescue workers and so forth) can create a bond between the team members that is quite strong. When the team departs from the immediate crime scene, there may be a sense of sadness because the team relationship has been broken. For these individuals, seeing or talking to

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the people who participated in the intervention as soon as possible after the event may be very helpful in dealing with stress.

iii. For those who prefer working alone, after a team response, they may need some time for separation to process the situation.

4. Make a self evaluation clarifying your own values, biases and prejudices. This involves understanding the nature of such values and testing their own predispositions to them. Caregivers should remember that everyone has values, biases and prejudices and that the reason for clarifying them is not to make judgments but to avoid allowing them to interfere with service. If, caregivers, discover certain biases that interfere with service, they should ask for assistance from other caregivers.

*Example:* One of NOVA's crisis responders discovered during a values clarification exercise that she could not deal well with victims or survivors who had been drinking at the time of their victimization. She explained during a group exercise that her father had been an alcoholic and eventually died in a driving crash. After an analysis of her reactions, however, she used a simple protocol she had devised for responding to such victims. When an unforeseen contact was made she requested that she not be assigned to such cases if possible.

5. Explore your reactions to issues such as human carnage, mutilation, death and dying, fears or phobias, or rape. Reading descriptions of crime or disaster scenes and talking about reactions to those descriptions is helpful. If you cannot listen to descriptions or talk about those reactions in training or in your own preparation, you may not be ready to confront these situations when they happens.
6. Prepare yourself physically. As indicated above, no matter how well your mind is prepared for crisis, the stress will take a toll on your body for your body will react instinctively to trauma in a similar way to a victim. It will mobilize itself — your heartbeat will increase, you will breathe more rapidly, adrenaline will course through your body, your muscles will tense, and you will become hyperalert. All of this mobilization is exhausting. So stay healthy and try to stay fit.
  - a. Most people have some bad nutrition habits, such as an addiction to chocolate or sugar, too much fat or cholesterol in the diet, addiction to caffeine (coffee, tea, and soft drinks), or to other unhealthy foods. Caregivers are encouraged to modify their diets to emphasize healthy foods.
  - b. Victim service providers often burn the candle at both ends. Because of their heavy work schedule and active family life, they may find themselves without sleep. When a crisis call comes, the extra of energy expended may leave them more exhausted than usual. Caregivers who are crisis workers are encouraged to get regular sleep so that they have the stamina they need in the crisis situation.

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- c. One of the most exalted but most under-used stress relievers is exercise. Often crisis workers feel they don't have enough time to exercise. In fact, regular exercise prior to a crisis adds to the length of endurance a caregiver will have during a crisis.
  - d. Some people smoke cigarettes, some drink alcohol, and some overeat. Caregivers are urged to moderate their unhealthy behaviors so that they can be in the best shape possible to deal with stress.
7. Train and prepare for your profession.
- a. One of the most commonly cited stress relievers is being adequately prepared for the tasks at hand. While some people may think that their education and experience prepare them for their profession, in the victim service field, constant training and skills development are necessary. The field is emerging so rapidly, and innovative ideas and skills developed so quickly, that without constant training, one may become obsolete. This is particularly true of crisis response and trauma.
  - b. Attend as many training sessions on dealing with crisis, appropriate treatment for victims and survivors as time and resources permit. Even if the content of the sessions do not live up to your expectation, the opportunity to meet with others who are doing the same thing as you do can provide a valuable resource.
  - c. Practice your skills. If you plan to respond to crisis situations and are not called to use your skills on a regular basis, get together with others and practice your crisis intervention or crisis response skills through role plays, simulations, problem-solving and other exercises.
  - d. Commit key words, phrases and protocols that will be used in virtually all crisis situations to memory. A crisis situation sometimes freezes our own ability to think. Knowing what to do without thinking will help you begin to function until your mind catches up with your body.
  - e. Training and preparation will not help you to avoid any crisis or stress reaction to a crisis situation, but they will help you reduce the intensity and the severity of that reaction. They will also help you to avoid doing or saying things that will make you feel badly in the aftermath of the situation.
9. Create your personal plan of action for a crisis situation.
- a. Make sure that your family and employer know what you will be called upon to do should a crisis situation arise. Will you have to work 24 hours or more at a time? Will you have to leave all other job assignments and concentrate only on the crisis? Will you be expected to travel somewhere instantly?
  - b. Cultivate a support system among your family members, friends or colleagues. Think

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about who you would want to be with or talk to as you face a crisis. Tell them of your thoughts before a crisis arises. If they agree to provide support, spend some time educating them on the crisis reaction, long term stress reactions, and how you generally cope with those reactions.

- c. Try to manage your time well before a crisis occurs, not just in your job but in your other activities as well.
- d. Cultivate routines. These routines will help you get back in the flow of life after a crisis. They serve as an anchor for returning to the "business-as-usual" state. For example:
  - If you don't think well before ten o'clock in the morning, develop a routine of looking at your mail from the day before at this time. This may be a time to return or make routine telephone calls or telephone calls that don't require a great deal of thought.
  - Some people like to designate each day of the week for specific routine tasks. Monday is for review of all projects assigned to you. Tuesday is for writing reports. Wednesday is for any meetings that need to be scheduled. Thursday is for doing telephone work. Friday is for updating case files. Clearly, these designations are flexible, and there can be schedule conflicts, but day designations can apply to things under your control.
- e. Design your own crisis intervention.
  - i. Establish a "safe" place for your trauma reactions. One crisis intervenor stated that whenever she returned home from a crisis, she gave herself a two hour mini-break before going back to personal or professional work. She would climb into bed with a cup of hot chocolate; cuddle up under a huge downy comforter and listen to classical music.
  - ii. Allow yourself to an opportunity to express your reactions. This does not mean you have to find someone to talk to, although many people need to have that validation. There are other types of ventilation: exercise, dance, writing (journals, poetry, stories), reading (books that echo or validate your reactions, poetry, novels), listen to or play music, talk to pets or plants.
  - iii. Predict for yourself when trauma or feelings might be most potent and construct a plan for dealing with them. Example: If you have been involved with a particularly sensational case and you know that it will be on the media over and over again, think through what your reactions might be and decide whether you will watch the media reviews.
- f. Acknowledge the trauma you have confronted. If you have been to a murder scene, it

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is not unusual to react viscerally with a sense of nausea. If you have dealt with a grieving victim, it is not uncommon to be sad or depressed. Even though you know those are normal reactions to abnormal events, you will also experience each crisis as a unique phenomenon. It is not abnormal to see the rest of the world as estranged and to experience a sense of isolation.

- i. The trauma includes not only the precipitating event but your view of the work you did in response. Caregivers often feel very good about their interventions because of positive feedback from disaster survivors; but many caregivers focus on the problems in their interventions, not the successes. Learn from the problems and dwell on the successes.
- ii. Tragedy hurts but you can "live through the time when everything hurts" and learn from your experience.

### B. Dealing with trauma at a crime scene and in the immediate aftermath.

1. Crisis intervenors should always provide services in teams of two or more people if they are responding to the scene of a crime, a hospital or making a home visit. They will provide emotional support for each other as they confront the tragedy and in the aftermath.
2. The coordinator of such teams should place an emphasis on team building before the response and encourage team members to continue that team building through mutual respect and trust at the scene.
3. Humor may be a useful coping device for team members in response to trauma so long as it is kept private.
4. The teams should arrange for daily debriefing sessions with each other if the event and its aftermath continues to demand heavy involvement of team members for more than twenty-four hours. If the crime and the aftermath only involve the team for a short time initially, there still should be mandatory debriefings for the team members if the crime involves carnage, extensive injuries, death, or any other extraordinary attributes.

### C. Post-crisis situation strategies for coping with stress reactions.

1. General coping strategies.
  - a. Often due to the effect of countertransference or construct changes in caregiver assumptions, trust will have been diminished by the exposure to criminal conduct. It is helpful to spend time focusing on trusting relationships.

*Example:* If a crisis intervenor has been involved in responding to a crime of father-daughter incest. She or he may want to spend time with his or her spouse and daughter observing and re-investing in a trust in a healthy relationship.

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- b. Review your understanding of your own safety and plan for ways in which you can reconstruct your sense of safety.

*Example:* In the aftermath of responding to an arson in a residential area in which three people had been killed, a crisis intervenor called the fire department for an inspection of her own home and made fire safety changes in response to their recommendations.

- c. Engage in activities where you have control of the outcome. Such activities are most helpful if you, alone, are involved. Some examples are: playing a musical instrument, hiking, training an animal, gardening, painting a picture, building a piece of furniture.
- d. Engage in activities where you have a sense of freedom and independence. These activities will help you nourish your sense of independence. Some examples are: riding a horse, sailing a boat, running, camping, rafting, flying an airplane, a night on the town.
- e. Talk to people who hold you in high esteem. Most of us know people who think well of us. Call your mother, your father, your sister, your brother, your best friend, a student — anyone who thinks you are just great!
- f. Give yourself a present — it may be simply be a present of time off, a special luxury, or a gift from a shop. Allow yourself to be taken care of. Don't take on decisions that you don't have to.

2. Trauma-specific strategies. A research study of police, fire, emergency medical and hospital personnel following two disasters in the same county revealed some evidence confirming the strategies listed above. The most frequently endorsed coping strategies following both events involved attempts to reach cognitive mastery over the event and to ascertain meaning. The following is a summary of some of the findings. (McCammon, S., et. al., "Emergency Workers' Cognitive Appraisal and Coping with Traumatic Events," *Journal of Traumatic Stress*, Vol. 1, No. 3, 1988.)

- a. Personnel ranked the following positive strategies in priority order of usefulness.
  - i. Integrate meaning of event with your understanding of the meaning of life.
  - ii. Regain mastery in your life through individual action.
  - iii. Regain mastery through interpersonal action.
  - iv. Philosophical self-contemplation.
- b. Some of the least helpful coping strategies were:
  - i. Altering activities; deviating from normal routine. Don't take a day off right after

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the crisis except, perhaps to catch up on required sleep. Get back to work quickly. Reestablish your former routines. Then, if you need to, take some time off to readjust your equilibrium. Getting back to normal routines will provide you with an anchor after dealing with a sea of chaos.

- ii. Taking on new interests in the aftermath of disaster. Attempting to do new and different things is often an avoidance technique as well. Answers are not to be found in ignoring the source of distress, they are to be found in confronting the stress and dealing with it.
- c. While the following negative coping strategies were not specifically addressed in the study, caregivers should be reminded of the potential harm involved in their use.
  - i. Making important decisions that will affect the rest of your life. Often these decisions are ones that help you run away from the stress reactions, too. Over-stressed caregivers may move from their community, change jobs, or even make precipitous decisions on relationships. The reality is that, while these actions may bury the stress for a while, it will probably re-emerge at a later time.
  - ii. Substance abuse.
  - iii. Excessive sleep.

### **V. Summary of Materials**

This review of the sources of stress for caregivers and a model plan of action for relieving stress varies from much published literature on stress management because it is primarily aimed at the crisis worker — particularly those who work in the victims movement with 24 hours crisis response. However, program directors, and persons in allied professional fields should find it useful as well since most people who work directly with victims work in a crisis environment.

Crisis workers face a reality that involves constant chaos, pain and heartache. But victim crisis workers rarely suffer burn-out because they also receive rewards from the victims they serve. They may suffer from other problems, inequities or stresses, but burn-out, itself, is rare. Most have learned the wisdom of the words of Edwin Markham:

“Defeat may serve as well as victory to shake the soul and let the glory out. When the great oak is straining in the wind, the boughs drink in new beauty, and the trunk sends down a deeper root on the windward side. Only the soul that knows the mighty grief can know the mighty rapture. Sorrows come to stretch out spaces in the heart for joy.”



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# *Creatively Coping*

# *With* **JOB STRESS**

As a psychologist, I frequently see the effects of excessive stress. Many of my clients have all the classic signs of job burnout: forgetfulness, mental and physical fatigue, inability to make tough decisions, lack of concentration, low-grade depression, and sleep disturbance.

I also frequently see some of the same symptoms in association executives. A few have been my clients, but more often I have noticed symptoms through a casual conversation at a convention or a participant's question during a speech on stress.

At the 1988 ASAE Spring Convention & Exposition in Dallas, for example, a breakfast networking session left a lasting impression. For one and a half hours I listened to 10 highly successful association executives talk about the pressures they were under. Two were actually on the verge of resigning their positions because they were not certain they could continue to handle the demands.

So how does an association executive handle job-related stress? It should be no surprise that the best strategy, insight, and impetus for changing difficult situations often come directly from the executive experiencing the prob-

**Change, involvement,  
and control.**

**They can lighten  
your workload if  
you let them.**

lem. No one understands the nuances of a stressful situation as well as the person feeling that stress.

To start developing your own set of stress management strategies, first consider two questions: What is job stress, and why do we experience it?

*Job stress* is a freely used term, but what does it mean? I find it interesting

that the term *marriage stress* is rarely used to explain what is wrong in a marriage. When a person says he or she is having marital stress, the next question is "exactly *what* is wrong?" The couple may need to explore a lack of communication, financial concerns, in-law problems, or myriad other issues. Advice from a counselor is directed toward solving the specific problem rather than alleviating global marital stress.

I don't see the same thing happening when people say they are having job stress. Rather than a careful inquiry into the specific causes of the problem, people are advised to approach a global solution. Job stress actually springs from many sources, and I recommend that you take the same approach to relieving it that you would with marital stress.

## **Six sources of stress**

First isolate why you may be feeling anxiety about your job. I find that asso-

**By Robert E. Lindberg**

ciation executives usually suffer from job stress for one of six reasons.

**A sense of failure.** Like the student who is getting bad grades in school, you will not feel good if you believe you are not doing a good job. Often such a sense of failure is a misperception on your part. It can occur whenever

- you feel you do not measure up to your perfectionist standards, and this self-feedback weighs you down;
- you are doing a good job but have the misfortune to be working among other association executives who are unusually superior performers; or
- you have a critical supervisor or board who take excellent performance for granted and only comment when something does not go perfectly.

Unfortunately, your misperception will create a sense of failure even though you may actually be doing outstanding work.

**Too much to do.** You may be doing a good job but still feel the stress of not having enough hours in the day. This sense of always being behind schedule, never caught up, and rushing from task to task takes a psychological toll.

Everyone can survive this kind of pressure for a short time (the CPA during tax season or the store clerk during the holiday rush, for example), but if such a pattern continues unabated, the pressure can turn into emotionally draining, long-term stress.

**Personality conflicts.** Disagreements between family members are frequently dealt with immediately and openly, but people are often advised by peers to keep office conflicts under the surface, where they remain unsolved.

You spend 8–10 hours per day with your members and staff, probably more time than you spend with your family. This amount of time creates a closeness that affects your emotional well-being no matter how you try to ignore conflicts. You need to tend to your relationships with work associates with the same level of concern as with your family.

**Lack of money.** If you are experiencing financial pressures in your personal life, it is natural to blame your job. Financial frustration is not technically a job stress.

I include "lack of money" under the job stress umbrella, however, because so many people make this connection. If you do not have enough money to keep the life-style you want, you may feel you are suffering job stress.

Other personal conflicts can also spill over to affect your attitude toward your job. Health problems, marital concerns, parent/child conflicts, or any other personal dissatisfaction can be carried into the workplace, and unless you are aware of what is happening, you may tend to blame your work for the negative emotions.

**A career mismatch.** You have a unique blend of interests, abilities, temperaments, aptitudes, and personality qualities. If this pattern comes close to

matching the demands of your career, the odds that you will find fulfillment there are greatly increased. Likewise, if your personality varies markedly from the personalities of people who are successful in your career, you may be mismatched. The odds of making a positive adjustment to the demands of your job are thus diminished.

How well do you fit your job? If it is too much of a mismatch you may always experience some level of stress there and may want to consider another aspect of association management.

**Job security.** The fear of losing one's job can create a gnawing, persistent stress. The reasons behind such a fear can range from a slowdown in the economy that raises the possibility of budget

## Self-Help

You can begin to ease stress by first assessing its source and then creating a coping strategy.

Rate each of the sources listed below on a scale of 1–10 (10 is most stressful).

- A perception of failure.
- Too much work to do.
- Personality conflicts within the office.
- Lack of money/other personal stresses.
- A possible career mismatch.
- Job security worries.

Your rating will give you an idea of how much each factor contributes to your own job stress and which areas to tackle to relieve persistent concerns.

Now, try answering the following questions to develop your own strategies for coping. I have given some suggestions with each question to start you thinking. You can move beyond my general ideas to your own specific strategies.

1. What are four specific things you can do to attack the causes of your job stress? (Directly confront the personality conflict you have with a col-

league; do a better job of delegating tasks; try not to blame the job for hassles that are occurring in your personal life.)

2. What are three ways that you could have a closer involvement with your staff, board of directors, and members? (Be the first one there with support when someone is going through a personal crisis; freely give others compliments; take the risk of sharing what is happening in your personal life.)

3. What are three ways you could have a more positive attitude toward change? (Accept that things will not always go as planned and that your most creative job challenge is making last-minute adjustments; drive home a different way tonight just to say to yourself that you are willing to do things differently.)

4. What are three things you could do to have more control over your life? (Develop a time management approach to your tasks; whenever you have an emotional response say "and I take responsibility for that feeling"; learn how to say no assertively when it is appropriate to do so.)

clarified, and any ambiguity reduced.

**Control.** To what degree do you feel you are in charge of your life?

If you are wealthy, have a job skill in high demand, and a job where you "call the shots," you will tend to feel in control. If, on the other hand, you are living from paycheck to paycheck, have a job that is valuable only to your pres-

*To what degree do you  
feel you are in charge  
of your life?*

ent association, or work for a very autocratic supervisor, you may feel in less control of your life.

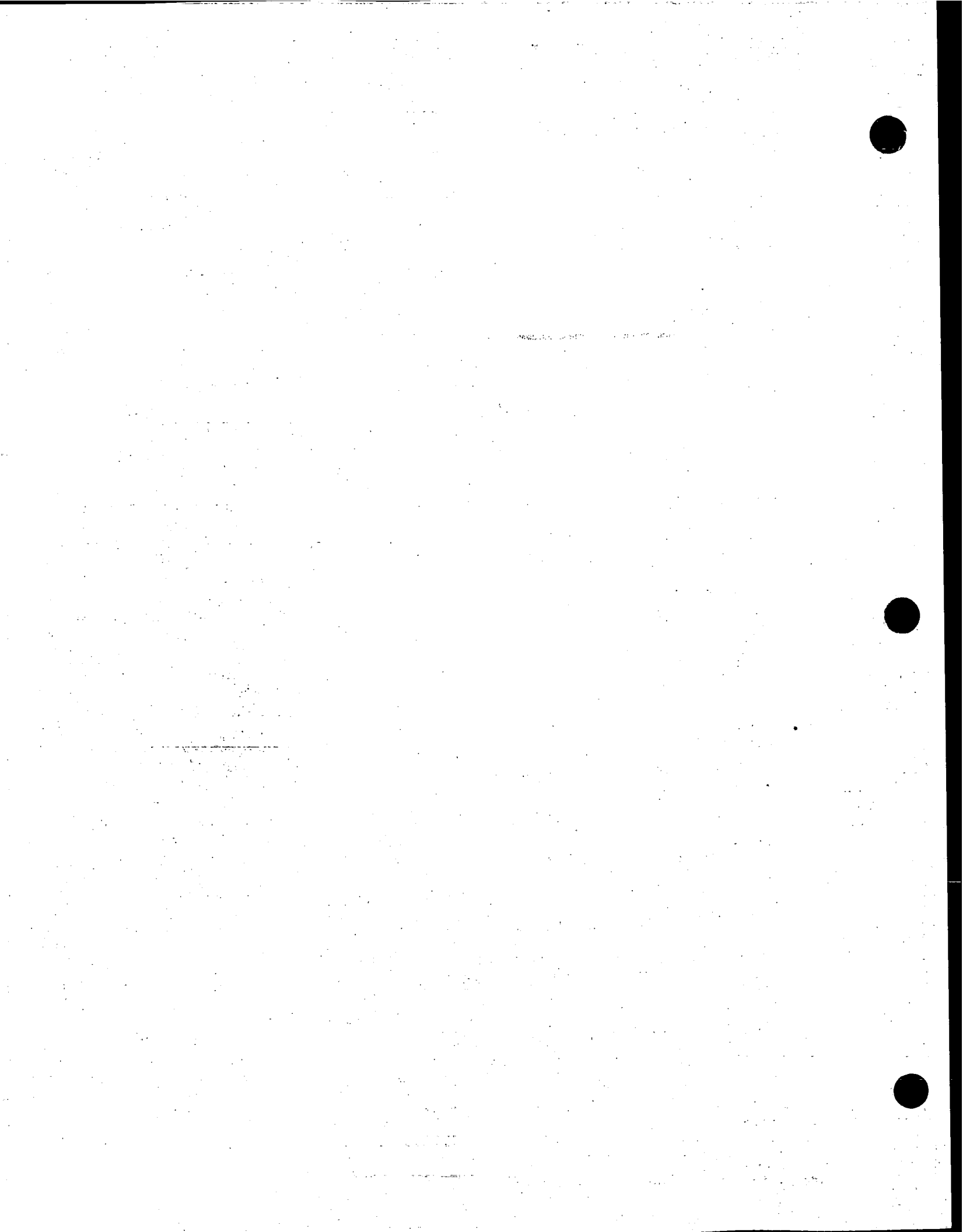
Control is often mentally achievable, no matter what the circumstance. For example: When a colleague or member criticizes you, your emotional reaction will fall within one of two realms. In the first, you will feel that the other person *made* you feel upset. In the second, you will realize that the choice of whether to become upset is your own. With this second response, you understand that you do not have to personalize professional criticism; you have maintained control over your reaction.

As you may have surmised, the more you feel in control of your life the more stress resistant you will be. (See the sidebar "Self-Help" for strategies for developing stress-resistant traits.)

Make it your personal commitment to expect more happiness from your career by directly addressing the sources of your job stress and by including in your efforts the three stress-resistant traits—high personal involvement, positive response to change, and mental control. There is probably no adjustment that will have more impact on your overall happiness. ADP

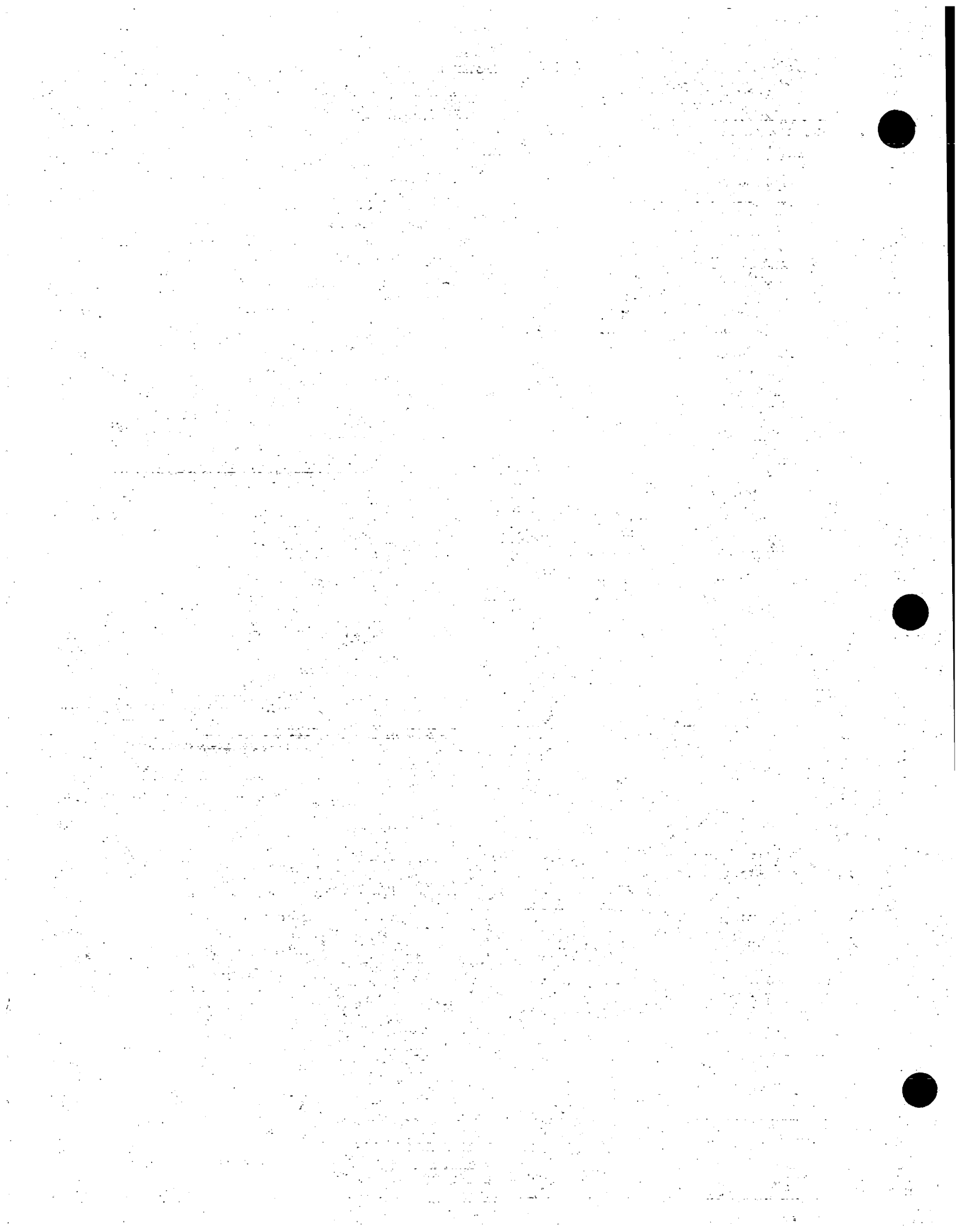
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# PREVENTING LAW ENFORCEMENT STRESS:

Bureau of **BJA** Justice Assistance



***PREVENTING  
LAW ENFORCEMENT STRESS:  
THE ORGANIZATION'S ROLE***

Richard M. Ayres

in collaboration with

George S. Flanagan

Edited by Marilyn B. Ayres

1990



## Chapter II

### MANAGEMENT PRACTICES/ORGANIZATIONAL FACTORS CAUSING LAW ENFORCEMENT STRESS

The important goals in examining management practices and organizational characteristics as they relate to law enforcement stress are to identify the sources of the problem and try to systematically eliminate them.

Using the organization-centered approach in examining the police workplace, the following management practices and organizational characteristics can be identified as contributing to law enforcement stress:

- o Autocratic quasi-paramilitaristic model
- o Hierarchical structure
- o Poor supervision
- o Lack of employee input into policy and decisionmaking
- o Excessive paperwork
- o Lack of administration support
- o Role conflict and ambiguity (lack of or conflicting organizational mission, values, goals and objectives)
- o Inadequate pay and resources
- o Adverse work schedules
- o Boredom
- o Unfair discipline, performance evaluation and promotion practices

#### AUTOCRATIC QUASI/PARAMILITARISTIC MODEL

Most law enforcement agencies are organized on a quasi/paramilitaristic basis, which sees police tasks as technological ones. Every assignment is sure to involve skills that do not vary greatly from individual to individual or from setting to setting. This model views discretion as unimportant and inappropriate for all but high-level supervisors (Ellison and Genz, 1983). Police officers face the same pressures as the average military recruit: excessive dress code, hair length and personal appearance regulations, problems of being low man on the totem pole, being required to show respect and respond properly to a superior officer, observing that "rank has its privileges," etc. (Kroes, 1985).

#### *Authoritarian Management*

In the traditional police organization, authoritarian management approaches predominate, with relatively little attention or concern being given to individual problems or human factors (Reiser, 1974). Reiser stated:

"Typically, the jackass fallacy is operative. This is based on the carrot and stick approach to personnel management, which assumes that without either dangling a tasty reward in front of

someone's nose or beating him with a stick, he will not move."

### ***"Punishment-Centered" Philosophy***

Another aspect of military-style organizations is that they tend to use a "punishment-centered" philosophy in their approach toward employees. This philosophy first assumes that rules are willfully violated, and this assumption is then used to justify punishment. Thus, an individual is presumed guilty before being proven innocent, which leaves the police officer in a continual state of feeling "wrong" in whatever he/she might do (Violanti, 1988).

### **HIERARCHICAL STRUCTURE**

A corollary of the paramilitary model is that most law enforcement organizations are built on rigid, centralized structures. There are generally many levels of administrators and line workers in the organization. The greater the number of different ranks in a hierarchy, the greater the social distance between the top and bottom. Thus, in a department with a chief, deputy chief, assistant chiefs, inspectors, majors, captains, lieutenants, sergeants, and patrol officers, it is a long way from bottom to top. Stotland (1975) believes this hierarchical structure decreases the sense of professionalism of those at the bottom of the pyramid, particularly patrol officers, contributing to lowered self-esteem.

Furthermore, people at the top of the structure often lose sight of or are not informed of what is happening on the bottom. When attempts are made to inform top management, the many layers in the communication network cause distortion and diffusion of the information, resulting in employee frustration and damaged morale.

### **POOR SUPERVISION**

First-line supervisors are management's most important link with the officers in the street. Poor supervisory practices, manifested in poor communication, favoritism in assignments and evaluations, inconsistency in applying rules and regulations, lack of direction, and lack of trust and respect can be devastating to law enforcement officers. This was best expressed by Eisenberg (1975):

"Styles of supervision vary tremendously, some providing a haven for the nurturance of psychological stress, while others tend to prohibit its manifestation or at least provide a vehicle available to the police officer for coping with stress. The supervisor who always 'goes by the book,' is never available on a complicated or delicate street situation, is overly demanding, tends not to back up a subordinate when conditions justify such support, or who fails to attend to subordinates' personal needs represents a supervisor who can substantially contribute to the psychological stress of his subordinates. The importance of the supervisor in the life of the patrol officer cannot be underestimated."

Although the importance of the supervisor cannot be underestimated, it often is by management, as demonstrated in the following ways: 1) through poor selection processes, not selecting the most qualified individual with management aptitude skills; 2) by not providing quality supervisory training in interpersonal skills; and 3) by not providing supervisors with authority compensatory with their responsibility.

### **LACK OF EMPLOYEE INPUT INTO POLICY AND DECISIONMAKING**

The lack of input in decisions that vitally affect one's job and life is a serious problem for law enforcement officers. An officer is better able to cope with the stress he faces if he feels that his superiors know and understand his problems and are in his corner. However, because of the militaristic atmosphere within police departments, line officers are discouraged from expressing opinions to their superiors (Kroes, 1985). In Kroes' opinion, administrators could take some pressure off their officers by letting the officers provide

professional input in decisions and policies that affect them.

In his study on job stress, French (1975) found that those who have lower levels of participation have higher job dissatisfaction. Similarly, low participation in decisionmaking about one's job correlates significantly to a number of important strains, namely boredom and depression. French also noted that participation not only has favorable effects on strain and on health, but it also produces good working relations with others, positive attitudes toward work, and high productivity.

### **EXCESSIVE PAPERWORK**

Excessive paperwork, often referred to as "red tape," is one of the most frequently mentioned problems with police administrators. Overemphasis on paper and forms creates problems for officers, who must often fulfill the role of clerks instead of professionals. Paperwork is perceived as more of an obstacle than a necessity (Violanti, 1988).

Eisenberg (1975) remarked that the volume of paper pushed by police officers is "incredible." Equally, if not more important, he asserted, is the fact that all too often, the need, purpose, and value of some types of paperwork is called into serious question by the officer himself. The importance of paperwork cannot be ignored in relation to documentation for performance evaluation, evidentiary matters, and civil litigation. Most officers understand the need for such paperwork. They are frustrated, however, with having to prepare correspondence that superiors should be responsible for, the use of redundant and obsolete forms and procedures, unnecessary reports, lack of clerical support and the underutilization of computers.

### **LACK OF ADMINISTRATION SUPPORT**

Any time law enforcement officers make independent decisions, they can be second-guessed by their superiors. Unfortunately, this second-guessing is highlighted in situations--often widely publicized and controversial--requiring the use of deadly force. Faced with this type of situation, the officer needs to know where his superiors stand. Will they support and back him, or will they abandon him to the wolves? Kroes (1985) contended that many line officers believe that they will be abandoned by their superiors and made scapegoats in the interest of public relations. When an incident occurs where an officer does not receive the administration's backing, the feeling of helplessness and lack of support spreads to other officers in the department. As a result, a general feeling of mistrust of the administration develops among the rank and file.

Further, officers who do not understand society's need for a system of checks and balances that includes close scrutiny of their behavior, particularly as it relates to force, will perceive any such scrutiny on the part of superiors as actual "abandonment." Yet, there is a critical difference between an "abandoning of the troops" and the normal internal investigative process that is a necessary societal control mechanism. Lack of education and understanding regarding this distinction often adds to officers' mistrust of the administration.

Officers also view a lack of support from the administration as a lack of concern for their welfare. They want management to defend the agency and employees against false accusations and innuendos from pressure and interest groups, city fathers, and the media. In addition, officers perceive a lack of support from the administration when top management does not speak out publicly on their behalf for needed wage increases and improved working conditions. The frustration felt by employees when management refuses to support them on these issues usually manifests itself in the form of job alienation or unionism.

### **ROLE CONFLICT AND AMBIGUITY**

Role conflict is defined as being torn by conflicting demands, feeling pressure to get along with people, and having differences with one's supervisors. Role ambiguity, in contrast, is having unclearly defined objectives, being unable to predict what others expect you to do, and having only a vague understanding of the scope of your responsibility (Kelling and Pate, 1978).

Role conflict and role ambiguity are found to be stressful in law enforcement as well as other

occupations. Law enforcement officers experience frustration and anxiety when there is no clear direction or mission for the department; they frequently complain about not knowing the goals and objectives. Frustration is also fueled when goals and objectives are not consistent or are not communicated and coordinated on a department-wide basis. Many departments also have rules and regulations that are ambiguous or conflicting. This is a particular problem for departments that try to make rules to cover every possible contingency. It is impossible for the officer to memorize all the rules in such departments; this results in confusion as to what behavior is expected or what the organization stands for.

Another aspect of role conflict was found in a study involving Miami, Florida, police officers. This study found that the multiplicity of roles officers were expected to perform; e.g., peace keeping, community service, crime fighting, etc., together with the ambiguities, inconsistencies, and conflicts between those roles, contributed significantly to stress and fatigue. (Kelling and Pate, 1975). Officers become particularly frustrated over what they perceive as a lack of emphasis on "real" law enforcement matters. Community service is often perceived in the negative sense of taking them away from their number one priority--fighting crime.

### **INADEQUATE PAY AND RESOURCES**

Significant progress has been made in the area of law enforcement wages and benefits during the 1980s, particularly in large departments. In spite of this, however, inadequate pay remains a problem for law enforcement officers nationwide. In performing their duties, officers believe they are performing an important role in the community; i.e., protecting life and property. They also believe, especially in light of the dangerous nature of their work, that they should be paid commensurate with it and with the benefits they are providing to society. Overall, officers are simply frustrated over not being paid what they feel they are worth.

Lack of proper equipment and shortage of personnel also plague the law enforcement profession. When the quality of one's work and safety is partly dependent on one's equipment, the caliber and maintenance of the equipment takes on new significance. Officers' frustrations are manifested in complaints about such factors as too few officers to handle patrol functions; poor maintenance of equipment or facilities; low bid policies resulting in poor equipment; or shortage of ammunition, support personnel, vehicles, radio channels, flares, etc.

### **ADVERSE WORK SCHEDULES**

"The human adult is an animal whose body is tuned by evolution and training to go about its business during the hours of daylight and sleep during those of darkness" (Kroes, 1985). Shift work is considered a significant stressor in that it has substantial adverse effects on one's family life and possibly on one's health (Eisenberg, 1975). Changing shifts every month, every three months, etc. is disruptive to one's personal and occupational lifestyles. Research has shown consistently that rotating shifts, especially those that rotate on a weekly basis, have an adverse effect on one's physical condition and on one's ability to work at maximum efficiency (Follard and Monk, 1979; Meers, Maasen, and Verhaagen, 1978).

The findings in a study of Newark, New Jersey, police officers who rotated shifts weekly exemplifies the frustrations resulting from shift work. Of the officers in this study, 75 percent preferred steady shifts, while only 5 percent wanted to continue their rotating schedules. Further, 74 percent were dissatisfied with their eating habits, 64 percent experienced sleeping disorders, and 91 percent of these officers' wives disliked the rotating schedules (Ellison and Genz, 1983).

### **BOREDOM**

Boredom--a stressor experienced by some law enforcement officers--may stem from repetitive work and resulting mental understimulation or from physical inactivity; i.e., the idleness that arises from not having enough to do on the job. Kroes (1985) refers to research that indicates increased fatigue on the job is most closely related to shifts in which little activity (and resulting boredom) occurs.

## **UNFAIR DISCIPLINE, PERFORMANCE EVALUATION AND PROMOTION PRACTICES**

At first glance, the topics of unfair discipline, performance evaluation and promotion practices might be included under the topic "poor supervision." Supervisors can and do have an impact on how equitably officers will be treated. However, supervision is only one part of the issue, as top management has the overall responsibility for developing an organization climate of fairness. For this reason, the issue of fairness as it relates to discipline, performance evaluation and promotion must be addressed separately.

### ***Unfair Discipline***

One of the most common stress factors in a law enforcement organization relates to the internal discipline structure. Officers often perceive themselves as second-class citizens, who do not have even the same rights as the common criminal. Officers are aware that they are not only liable criminally and civilly for an offense, but they can also face punishment from *within the organization*.

Therefore, frustration with the internal disciplinary process is commonly expressed by officers, who often complain of favoritism, overemphasis on negative discipline, excessive time between violation and corrective action, discipline based on external public pressure, lack of criteria or guidelines for disciplinary action, inconsistency and arbitrariness, the "where there's smoke there's fire" syndrome, "nitpicking" when major violations cannot be substantiated, vindictiveness, and lack of due process. The usual reaction by most officers to the disciplinary process is an antagonistic stance, with the expectation of unfair treatment.

### ***Unfair Performance Evaluations***

The issue of fairness is also at the heart of performance evaluations. Will the officer be rated fairly? Is the evaluation objective? Is there a quota set by top management for outstanding ratings? Will the old numbers game be the basis for evaluation, or will documented qualitative factors reflecting one's ability to do the job be used? Will there be equal emphasis on and rewarding of good and bad performance? Unfortunately, in many agencies, most of these questions can be answered in a negative manner and thus generate stress. Even a sadder commentary is the fact that, in some departments, performance evaluations are a farce and have little or no meaning to the officers.

### ***Unfair Promotion Practices***

Fairness is also the central issue in all promotion systems. The fact that many promotional processes ordinarily lack or are perceived as lacking fairness and objectivity is compounded by the limited opportunities for promotion to higher rank. Furthermore, police officers tend to be extremely competitive; and failure to be promoted in an anticipated time may result in feelings of alienation from the group, depression, and low self-esteem. This loss of group identification may seriously affect functioning ability on the street (Reiser, 1974).

## **CONFRONTING THE STRESSORS**

The traditional method of dealing with the 11 stressors discussed above has been to utilize a person-centered or illness model approach. This approach provides officers with psychological counseling or training on stress management techniques to increase their coping abilities.

Using an organization-centered approach, however, having examined the workplace and identified 11 management practices and organizational factors causing law enforcement stress, it is now necessary to develop management strategies to remove them, thereby treating the causes instead of merely the effects of stress.

Before addressing these management strategies to remove stress, it is important to consider a variable that has heightened the impact of these 11 stressors--the increased educational level of today's law enforcement officers.

## Appendix B

### TECHNIQUES FOR ENCOURAGING UPWARD COMMUNICATION

Law enforcement administrators committed to creating a good workplace must adopt a participative decisionmaking style that encompasses a "bottom-up" flow of ideas. This means that all people who are affected by a decision have the opportunity to participate in it. The following are techniques for encouraging upward communication that have proven effective in law enforcement agencies throughout the country.

#### ADVISORY GROUPS

Participants are selected from a representative sample of employees. These representatives meet on a regular recurring schedule to discuss current topics of interest and to provide ongoing feedback to executive management. Field commands have local meetings and bring departmental issues to the advisory groups.

#### BRAINSTORMING SESSIONS

Employees are encouraged to generate creative alternatives concerning group missions, specific objectives, or problem solutions. Popular "creativity" techniques may be used. The primary focus is on idea generation as opposed to critique or analysis.

#### CAREER PLANNING

Each employee completes several work sheets on self-assessment, goal establishment and analysis, time inventory, and an action plan for his or her personal life. The supervisor is responsible for scheduling a meeting with each employee on a quarterly basis, during which the employee's job/career work sheets are reviewed and compared with: 1) the department goals and objectives; 2) the most recent department goal analysis; and 3) the employee's job description.

#### "CODE-A PHONE" TELEPHONE MESSAGE LINES

Two "Code-a-Phone" telephone message lines are available for information dissemination and the offering of employee suggestions as well as employee opinions and concerns to management. One line is allocated to the office of the chief of police for receiving messages from employees. The chief responds to questions on an individual basis if the caller identifies himself or herself, or he may respond through publication of a Chief's Bulletin if the problem is of concern to a broad range of employees.

The second message line is assigned to the Employee Relations Section for use in providing information through a recorded announcement. The caller may listen to the announcement and leave messages or suggestions. As with the line in the Chief's office, a message will be responded to personally if the caller identifies himself or herself. Messages are also responded to through the Employee Relations Newsletter or through a subsequently recorded message, as appropriate to the situation.

#### COMMAND AND SUPERVISORY STAFF MEETINGS

The chief of police and or the deputy chiefs will attend command and supervisory staff meetings to involve all management levels in discussions of department policies, procedures and personnel practices. The command and supervisory staff meetings will be hosted by individual participating units in accordance with an established schedule.

## DEPARTMENT NEWSPAPER

The newspaper is a bi-weekly publication of the public affairs section, designed to keep personnel better informed on departmental issues. Questions are submitted anonymously to the public affairs section by telephone, letter, or by the Law Enforcement Information Network; they are then directed to the department person most likely to provide the best answer. The questions and answers are then published and sent into the field.

## DESIGNATED DEVIL'S ADVOCATE AT STAFF MEETINGS

Several days before any scheduled staff meeting, a "devil's advocate" is designated by the manager. This person is expected to challenge all issues at the meeting with well-reasoned arguments. Other meeting participants can approach the devil's advocate prior to the meeting to coach him or her on arguments to use or issues to raise.

## ELECTRONIC MAIL

Personal computers (PCs) are tied into a mainframe computer to send memos or letters to other users electronically. It allows the rapid transmission of information up, down, or across all levels of management.

## EMPLOYEE COUNCIL

A peer-elected council of employees representing each division within the organization provides management with employee concerns, ideas, suggestions, and planning goals. Members rotate quarterly among those interested in serving on the council, and meetings are held monthly. Minutes taken at all meetings are typed, copied, and distributed so that all department employees are kept informed of council activities and discussions. All suggestions must be submitted in the form of completed staff work, so nothing remains to be done except for approval or disapproval by the final authority.

## EXECUTIVE-EMPLOYEE BREAKFAST, LUNCH, COFFEE

A cross section of employees (five or ten) have breakfast, lunch, or coffee with one or more senior executives. The session features relatively unstructured, open discussions on issues of mutual concern.

## EXECUTIVE VISITS TO THE FIELD

The chief of police or members of the command staff visit the various precincts/bureaus and hold informal discussions with employees. Some commanders actually ride along with patrol officers or detectives during a shift. Visits may occur during roll call, training programs, or other similar activities.

## EXECUTIVE VISITS TO UNION MEETINGS

Members of executive management attend union meetings during which questions are fielded and open discussions are held with the union representative.

## EXECUTIVES WORKING ON LINE JOBS

Executive administrators (captain and above) are required to work Friday and Saturday nights on a rotating basis one weekend in each ten-week period. This assignment is titled "Command Duty Officer." The command duty officer is required to contact varied work stations to facilitate upward communication of concerns and/or ideas by lower and entry level personnel. This increased communication eliminates many misconceptions, rumors, and frustrations and enables the organization to function more productively.

## EXIT INTERVIEWS

All employees who separate from the department are required to meet with a staff member from the psychological services unit for an exit interview. This interview is informal and is centered around the following four topics: 1) reason(s) for leaving; 2) positive aspects/experiences with the department; 3) negative aspects/experiences with the department; and 4) suggested areas of change/improvement. This data is then collected in aggregate form and reported to the chief and executive command staff on a quarterly basis.

## GRIEVANCE PROCEDURE

When an employee claims a violation, misinterpretation, or misapplication of the department rules or regulations affecting the terms and conditions of his or her employment (excluding disciplinary matters), he or she initiates the procedure by presenting the grievance to the immediate commanding officer. If satisfaction is not obtained, successive higher levels of appeal are initiated up to and including the police chief, commissioner, and/or an impartial arbitrator.

## INSPECTION PROCESS

Staff inspections are conducted to ensure an objective review of office facilities, property, equipment, personnel, and administrative and operational activities outside the normal supervisory and line inspection procedures. These inspections are conducted annually on each component of the department; upon their conclusion, a written report with recommendations is submitted to top management.

## LABOR MANAGEMENT COMMITTEE

The committee consists of the chief of police, four additional management representatives, the police union president, and four additional union representatives. They meet at least once quarterly and discuss issues or changes of concern to either of them. Participants may vote; however, the chief of police and the union president retain the ultimate authority to make decisions on police issues and union issues, respectively.

## OPEN DOOR SYSTEM

Employees are encouraged to express their concerns to higher organizational levels if they cannot reach a resolution with their immediate managers. The employee may choose to appeal to a second-level manager or, in some organizations, to the top executive. After a high-level executive receives an appeal, an investigator who has no involvement in the case may be chosen to conduct a thorough, confidential probe of the situation. After determining the validity of the employee's concern, the investigator recommends appropriate action and documents the case. The executive makes the final resolution and the employee is notified as to the decision and reasoning.

## QUALITY CIRCLES

A team of employees who share common duties are brought together voluntarily on company time to develop, discuss, and resolve pertinent issues facing the department. A sergeant serves as the circle leader, and the problems and issues addressed are passed up the command ladder for consideration and implementation as they are approved.

## RECRUIT INTERVIEWS

New recruits are personally interviewed during their probationary period about their perceptions, opinions, and ambitions as police officers. This process is based on the belief that new recruits may be best qualified



to explain the similarities and differences between the way they expected police work to be and how it actually is (given preconceived notions and the unavoidable limitations of modern day police training methods). The interview is conducted with the use of a questionnaire covering a series of issues involving police work and some of its effects on the individual.

### RETREATS

A selected group from within the organization is brought together in a location away from the workplace, so they are physically removed from the distractions of the job. An outside facilitator explains to the group the process that will be followed. In one scenario, for example, all supervisory and management ranks, including the agency head, are gathered for two and one-half days. The facilitator tells the group that their purpose is to set goals. Starting in small work groups and ending with the entire group, a list of three to five of the management team's desired goals--reachable within the next 12 months--are agreed upon and prioritized. These are then presented to the agency head in written form.

### SUGGESTION PROGRAM

The suggestion program was established to encourage employees to point out possible inefficiencies, wasted effort, or unsound practices in the organization. This program offers a means of bringing viable, realistic ideas to the attention of supervisors and top management.

### SURVEYS

A printed survey is distributed to employees at specified time intervals, containing questions pertaining to a department, division, unit or other activity. Respondents' identities are confidential. Responses are compiled, results are published, and findings are acted upon by appropriate personnel.

### TASK FORCES

An employee group consisting of individuals of similar rank is formed to investigate a certain topic or to work on the solution of a perceived problem. The group usually develops a set of recommendations, which are presented to executive decisionmakers for action. Group members can be appointed or can volunteer. Topics or problems are usually determined by organizational need.

Fed. R. Cr. P. 32(a)(4)(D):

- requires that the presentence report contain "verified information, stated in a nonargumentative style, containing an assessment of the financial, social, psychological, and medical impact on any individual against whom the offense has been committed."

Fed. R. Cr. P. 32(a)(4)(F):

- requires that the presentence report contain, in appropriate cases, "information sufficient for the court to enter an order of restitution."

Fed. R. Cr. P. 32(c)(3)(E):

- provides that before imposing sentence in a crime of violence or sexual abuse, the court must "address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement or present any information in relation to the sentence."

Fed. R. Cr. P. 32(c)(4):

- provides that victim statements may be heard by the court in camera "upon joint motion by the defendant and by the attorney for the government."

Fed. R. Cr. P. 32(f)(1):

- defines "victim" as "any individual against whom an offense has been committed for which a sentence is to be imposed."

- provides that right to speak at sentencing may be exercised by the victim or (A) by parent or legal guardian if victim is under 18 or is incompetent; or (B) by one or more family members or relatives designated by the court if the victim is deceased or incapacitated.

Fed. R. Cr. P. 32(f)(2):

- defines "crime of violence or sexual abuse" to be one that "involved the use or attempted or threatened use of physical force against the person or property of another, or a [sexual abuse] crime."



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(3) Section 5038(a)(6) permits disclosure of records of juvenile proceedings to answer inquiries from victims and the immediate families of victims regarding the final disposition of the juvenile, thus recognizing the importance of providing such information to victims and their families.

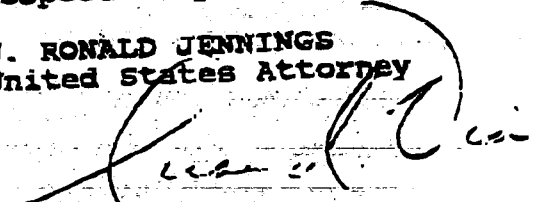
(4) Fed. R. Crim P. 32(c)(3)(E) provides that in cases of violent crimes, prior to imposing sentence, the court must "address the victim personally if the victim is present at the sentencing hearing and determine if the victim wishes to make a statement or present any information in relation to the sentence." The Rules of Criminal Procedure do not apply to federal juvenile delinquency proceeding only "so far as they are inconsistent with . . . [such proceedings]." Fed. R. Crim. P. 54(b)(5).

(5) Weighing all the facts and circumstances in this case, and taking into consideration the competing interests of the juvenile and the victims and their families, the court can exercise its discretion and permit access by the victims, subject to whatever reasonable conditions this court deems just, including requiring such persons not to disclose the name of the juvenile to any other persons.

Dated: February 27, 1995

Respectfully submitted,

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8	UNITED STATES OF AMERICA,	)	
9		)	CR 96-583-TUC-WDB
	Plaintiff,	)	
10		)	GOVERNMENT'S MOTION AND
	v.	)	MEMORANDUM OF LAW IN
11		)	<u>LIMINE</u>
	RUBEN NARANJO,	)	
12		)	
	Defendant.	)	
13	<hr/>		

14 Plaintiff, United States of America, by and through its  
 15 attorneys, JANET NAPOLITANO, United States Attorney for the  
 16 District of Arizona, and Susan R. Via, Assistant U.S. Attorney,  
 17 files the following in limine motion and memorandum of law  
 18 regarding a number of evidentiary and other issues for the trial  
 19 in the above-referenced case. This is intended to expedite the  
 20 trial and avoid unnecessary sidebar conferences to discuss  
 21 questions of admissibility or other matters during the trial, and  
 22 to highlight for the court the areas where the government believes  
 23 evidentiary or other disputes between counsel may arise.

24 The government requests that this court address the issues  
 25 raised in this motion and enter pretrial rulings on the request  
 26 pursuant to Fed. R. Cr. P. 12(e), for the reasons herein stated.

1 (1) Leading questions

2 The government moves pursuant to Fed. R. Evid. 611(c) for  
3 permission to use leading questions during the direct examinations  
4 of four young children whom it intends to call as witnesses in  
5 this case. These witnesses are as follows: the victim, who is  
6 ten; the victim's brother, who is nine; a cousin of the victim,  
7 who is ten; and another cousin of the victim, who is eight. The  
8 victim and his eight-year-old cousin will be testifying about  
9 their sexual abuse by the defendant, and the other boys will be  
10 describing the events on the day of the crimes, and the victim's  
11 disclosure of his abuse to them. All four have expressed  
12 embarrassment and fear about testifying, and the nature of their  
13 testimony is intensely personal and difficult to discuss.

14 It is well-settled that Rule 611(c) gives the court broad  
15 discretion to permit the use of leading questions to young  
16 witnesses in cases involving child witnesses. United States v.  
17 Castro-Romero, 964 F.2d 942, 944 (9th Cir. 1992) (eight-year-old  
18 victim); United States v. Longie, 984 F.2d 955, 958 (8th Cir.  
19 1993) (twelve-year-old victim); United States v. Boyles, 57 F.3d  
20 535, 547 (7th Cir. 1995) (four-year-old witness to mother's rape);  
21 United States v. Butler, 56 F.3d 941, 943 (8th Cir.) (nine-year-old  
22 victim), cert. denied, 116 S. Ct. 322 (1995); United States v.  
23 Demarrias, 876 F.2d 674, 678 (8th Cir. 1989) (fourteen-year-old  
24 victim); United States v. Nabors, 762 F.2d 642, 650-51 (8th Cir.  
25 1985) (twelve-year-old bank robbery witness); United States v.  
26 Rossbach, 701 F.2d 713, 718 (8th Cir. 1983) (fifteen and seventeen-

1 year old rape victims), cert. denied, 498 U.S. 827 (1990); United  
2 States v. Iron Shell, 633 F.2d 77, 92 (8th Cir. 1980) (nine-year-  
3 old victim), cert. denied, 450 U.S. 1001 (1981); United States v.  
4 Littlewind, 551 F.2d 244, 245 (8th Cir. 1977) (thirteen-year-old  
5 victim). "[T]he questioner is usually allowed to put leading  
6 questions to a witness who is (i) very young, and therefore  
7 perhaps apprehensive, uncomprehending, or confused, (ii) timid,  
8 reticent, reluctant, or frightened, (iii) ignorant,  
9 uncomprehending, or unresponsive, or (iv) infirm." 3 D. Louisell  
10 & C. Mueller, Federal Evidence § 339, at 462-63.

11 (2) Adult attendant

12 Pursuant to Fed. R. Evid. 611(a) and 18 U.S.C. § 3509(i),  
13 the government moves this court to permit the two mothers of the  
14 four little boys described above to accompany them to the stand  
15 while they testify to provide emotional support to these children.  
16 The government suggests that each adult attendant be permitted to  
17 sit next to her child slightly to the rear of the witness so that  
18 there will be no opportunity for the adult to prompt or provide  
19 any answer to the child while he is testifying.

20 Both of these adult attendants will be called as witnesses  
21 by the government. This does not preclude their serving as adult  
22 attendants for children. United States v. Grooms, 978 F.2d 425,  
23 429 (8th Cir. 1992).

24 (3) Special courtroom procedures

25 Many courts have discussed the difficult evidentiary  
26 problems involved in eliciting truthful testimony from victims of



1 child sexual abuse, and the need to alter standard courtroom  
2 configurations and procedures to facilitate testimony from  
3 children. See, e.g., Hicks-Bey v. United States, 649 A.2d 569,  
4 575 (D.C. 1994), cert. denied, 116 S. Ct. 251 (1995); United  
5 States v. Williams, 37 M.J. 289, 290 (C.M.A. 1993); Hunter v.  
6 State, 391 S.E.2d 695, 697 (Ga. App. 1990); In re C.M., 595 A.2d  
7 293, 295 (Vt. 1991). California has codified the need to  
8 accommodate children in Cal. Penal Code § 868.8(c)(West), which  
9 provides that "[i]n the court's discretion the judge, parties,  
10 witnesses, support persons and court personnel, may be relocated  
11 within the courtroom to facilitate a more comfortable and personal  
12 environment for the child witness."

13 At present, the government believes that all four boys  
14 will be able to testify in court from the witness stand. However,  
15 it asks the court to permit use of a small table and chair to be  
16 placed in front of and facing the jury box if any child becomes  
17 unable to communicate from the witness stand. Should this occur,  
18 the government asks that counsel for both parties be ordered to  
19 question any child who is seated at the small table from the  
20 government's counsel table, and that the attorney doing the  
21 questioning remain seated so as not to intimidate or loom over the  
22 small, seated child.

23 The government also requests that counsel for both parties  
24 be ordered not to argue objections in front of any child, and that  
25 a recess be called and the child excused from the courtroom if any  
26

1 sidebar conference to argue objections or for any other purpose  
2 becomes necessary.

3 When administering the oath to any child witness, the  
4 government asks that the oath not include the phrase "swear to  
5 tell the truth." This is and can often be misinterpreted by young  
6 children to mean using profanity or "swearing" in common parlance,  
7 rather than promising to tell the truth. The government suggests  
8 that the oath be modified to ask each child "Do you promise to  
9 tell the truth?" so as to avoid any confusion.

10 (4) Protective order

11 Pursuant to 18 U.S.C. § 3509(d)(3)(A) and (e), the  
12 government moves for a protective order providing that the  
13 testimony of all four children be taken in a closed courtroom in  
14 order to protect the privacy of the children, to avoid infliction  
15 of substantial psychological harm to the children, and to enable  
16 the children to communicate effectively. The government asks that  
17 the order include all members of the public, the press, and any  
18 unnecessary courtroom personnel and members of the staffs of each  
19 attorney's office, except such persons deemed necessary to be  
20 present by the attorney for each party and by the court.

21 In making its ruling on this motion, the government asks  
22 this court to consider each child's age, the nature of the crimes  
23 charged in the indictment, the psychological fragility of each  
24 child, the preferences of each child's parents, and the desires of  
25 each child. Globe Newspaper Co. v. Superior Court, 457 U.S. 596,  
26 608 (1982). The government is prepared to offer the testimony of

1 a clinical child psychologist regarding the nature and extent of  
 2 harm to these children if they are required to testify in open  
 3 court.

4 Closure is particularly appropriate where children must  
 5 describe humiliating, degrading or embarrassing facts. In the  
 6 instant case, the allegations involve the defendant fondling the  
 7 penis or genitalia of small boys, and licking the bare anus of one  
 8 of the boys. These are certainly the types of events for which  
 9 courtroom closure to unnecessary persons is warranted. United  
 10 States v. Galloway, 963 F.2d 1388, 1390 (10th Cir. 1992), cert.  
 11 denied, 506 U.S. 957 (1992); United States v. Franzen, 32 F.3d  
 12 369, 371 (8th Cir. 1994).

13

## Overview of Community Crisis: Coping With Mass Casualties

*(This outline was adapted from Chapter 2, Nature of Catastrophe, in Responding to Communities in Crisis: The Textbook of NOVA's National Crisis Response Team. Portions of this outline also appear in NOVA's basic textbook, "Victim Assistance: Frontiers and Fundamentals.")*

*This workshop focuses primarily on mass casualties arising from major violent crimes, but also applies to natural disasters and major accidents. Many participants at this workshop may not respond directly to non-crime-related events, but all victim assistance specialists should be aware that crime rates (particularly for sexual assault, domestic violence and child abuse) rise dramatically after natural disasters and major accidents.*

### I. Definitions

#### A. Individual Trauma versus Collective Trauma

*Individual trauma is a "blow to the psyche that breaks through one's defenses so suddenly and with such force that one cannot respond effectively."*

*Collective trauma may result in loss of communality and is a "blow to the tissues of social life that damages the bonds attaching people together." Kai Erickson, *In the Wake of A Flood*, 1979.*

#### B. Disaster

*"Anything ruinous or distressing that befalls; a sudden or great misfortune or mishap; a calamity." Beverly Raphael, *When Disaster Strikes*, 1986.*

Used in this outline synonymously with major crime, catastrophe, tragedy, and community crisis.

### C. Community

#### 1. Natural Communities

Natural communities are bound together through time by common characteristics. The bonds may be established through geography, profession, employment, education, religion and so forth.

#### 2. Transitory Communities

Transitory communities are bound together at one point in time by a disaster itself.

### D. Who is a Victim?

How does one identify a victim? One suggestion comes from New Zealand in *Disasters and Disaster Stress*, AMS Press, New York, 1989, in a classification scheme developed by A.J.W. Taylor and A.G. Frazier.

"1. *Primary Victims* — those who are directly exposed to a large scale catastrophe with the potential for destroying life, disrupting well established relationships and patterns of behavior, and for destroying property;

"2. *Secondary Victims* — those with close family and personal ties to the primary victims who themselves have severe grief and perhaps guilt reactions;

"3. *Tertiary Victims* — those whose occupations and duties require them to respond to any major alert in the community and to assist with any subsequent rehabilitation and restoration work;

- "4. *Quarternary Victims* — those concerned and caring members of communities beyond the impact area who express their intentions often with inappropriate goods and services. They might also come from organizations that feel some responsibility for having perhaps contributed to the cause of a particular disaster;
- "5. *Quinternary Victims* — those individuals and groups who lose control when in proximity to disasters and either reveal their underlying psychopathology by their ghoulish preoccupation with cadavers or by their unruly behavior in mobs;
- "6. *Sesternary Victims* — those miscellaneous people who
- "(a) think that but for chance events they would have been primary or secondary victims;
  - "(b) refrained from expressing a premonition to somebody who subsequently became a primary victim;
  - "(c) actively induced people to enter situations in which they became primary victims;
  - "(d) were the close relatives and friends of the tertiary victims who waited at home for news that their people were safe and then shared the emotional burden of the post-disaster working situation;
  - "(e) as clinicians and researchers, at a stage often far removed from the "disaster-face," are liable to have their professional competence affected because of
    - "1. the acute and prolonged demands presented by their own post-disaster work,

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## Participant's Notes

"2. the risk of emotional identification with the suffering of some works,

"3. any compelling desire to appear to be doing something immediately 'useful' as distinct from the indirect or abstract,

"4. any thirst from seeking sustained dramatic experience;

"(f) suffer guilt from benefiting from a disaster."

b. While the previous definition is based on objective observation, from an individual's subjective experience, the survivor may see the tragedy from several different perspectives:

i. as a victim who is injured or who has lost property in the event;

ii. as a sensorial witness either as a bystander or a responder;

iii. as a survivor of a loved one involved in the catastrophe — a loved one who has died, been injured, or had property destroyed;

iv. as a rescuer — an on-scene responder, a remote responder who has a job supporting on-scene responders;

v. as a rescuer who has been successful in rescuing people or property or a rescuer who has failed in his or her efforts (often these roles exist simultaneously in rescuers);

vi. as a community member whose community has been the subject of the catastrophe.

c. The subjective experience of a survivor may be complicated if s/he is identified as a hero.

Most people identified as here do not feel comfortable in the role and many feel as though the role adds an extra dimension to the emotional turmoil in the aftermath.

## II. Believability

Many victims and survivors measure their reactions against a continuum of what is believable about the disaster and what is unbelievable.

If the event is considered to be *impossible*, then survivors may feel more anger and less fear. They are angry about the fact that something that could never have happened but they generally have little fear because they do not believe it will happen again.

If an event is considered *improbable* — believable but not expectable — then fear of the unsafety of the world is increased although fear of particular repetition of the incident may be reduced.

The more *possible* the event is, the less the shock of sudden, unexpected danger. However, even with the possible there is often anger because people think the possible should have been impossible if protective devices could have been employed.

The more *probable* a disaster is, the less anger will be felt. Many who knew they were at risk may adjust their pre-disaster concerns to accommodate the possibility of disaster and use that adjustment to reconcile their world view in the aftermath of the disaster.

There are *predictable* events that are perceived as disasters. These differ from possible or probable disasters since there is time for warning and a chance for choice. If adequate warning is given, there will be less likelihood of anger or fear in the aftermath, although if individuals do not respond to the warning, there may be guilt. If adequate warning is not given, there will be exacerbated anger or fear.



### **III. Distinguishing Features of Community Tragedy**

#### **A. The Extent of Death and Mayhem**

In most cases the greater the number of dead or injured and the greater the amount of carnage, the more likely that the tragedy will be perceived as affecting a broad community.

#### **B. Massive Dislocation and Relocation**

Massive dislocation and relocation of home, school, or workplace may enhance community trauma.

Home, school and workplace usually are invested with a sense of extended personal identity. The longer one has worked or lived in a particular place, the more it is seen as an extension of self. Fracturing those relationships can be as damaging emotionally as physical injury.

If the dislocation or relocation involves establishing a temporary home in a shelter or other facility, the strange surroundings may cause increased anxiety and a sense of loss. The strangeness of the environment will be more strongly felt if pre-disaster social networks are not maintained.

#### **C. Unemployment, Job Loss, or Severe Individual Financial Losses**

Disasters that are accompanied by long-term unemployment or financial losses can threaten the survival of individuals, families and communities. Since employment is an important part of many people's sense of social support, wide-scale lay-offs or company reorganizations can cause community-wide crisis.

#### D. Extent and Kind of Property Destruction

Wide-scale property destruction may demolish the physical structure of a community and thus change the landscape, transportation routes, and normal routines. Property that is destroyed in which survivors have invested sentimentality may be a source of extreme grief. Landmarks in the community, memorials, or community meeting places may also hold special emotional value to community members. If they are destroyed, it may be the final blow that rips the community apart.

#### E. Number of People Affected

The more individuals involved as victims, survivors, helpers, bystanders, and the like, the greater the community impact.

#### F. Sensationalism and Voyeurism

Intrusions by media representatives or onlookers who are simply there to see the rubble, carnage, or grief of the community enhances the feelings of abandonment and anger of survivors. While people will turn to other community members for support, there will be a great deal of resentment towards uninvited outsiders who have no positive assistance to offer.

#### G. Depth of Involvement of the Community: Relative Loss and Deprivation

If this has not been the worst thing that has happened to the community, the impact of the latest disaster will have a proportional effect. However, if this is the worst thing that has happened and there have been no pre-existing disasters, it may be perceived as a legitimate "end of the world."

#### H. Star Effect

While an individual tragedy may affect the individual and his/her loved ones, the effect of a community trauma is that each individual and his/her loved ones are affected but they, in turn, have a traumatic effect on others (compounding stress within and across social circles). In addition, more than one individual is a direct victim; hence, the stress reactions occur in different forms and at different times.

#### I. Pin-Ball Effect

Stresses "bounce" well beyond the immediate place of crisis and effects changes over time. The individual crisis reaction may subside more quickly than a community reaction. For the community in trauma, there is a reinforcement of the crisis even when it is a reinforcement of disillusionment. Estrangement, isolation and anger may cause irreparable rifts between the support systems and cause total community re-formation. It is similar to the individual creation of a new life but increases rather than decreases individual trauma. Second injuries from the criminal justice system, civil litigation, media and the like may perpetuate the impact of trauma at different times and in different ways for different people.

#### J. Multiple Histories

In a community situation, each individual brings to the crisis his or her own history. In addition, each may bring a history of a former community crisis. And, finally, the community brings its own history. The community and sub-communities all have their own personalities and histories. They, in turn, compound the history of the individual.

## K. Immobilization of Helpers

Caregivers are often immobilized by the same shock, disbelief and denial that afflicts direct victims or survivors. Hence, their helping mechanisms and techniques may not be implemented as quickly or efficiently.

## L. Politics and the Chaos of Response

Perhaps one of the most problematic issues in the immediate aftermath of catastrophe is community and organizational politics. The question of "who is in charge" is compounded by the fact that normal responding agencies may be in chaos, but also may be reluctant to let anyone else seize the credit. Leadership may become fragmented and the normal bonding for survival may be interfered with as survivors worry about who gets the credit for rescue operations or other actions.

## VII. Conclusion

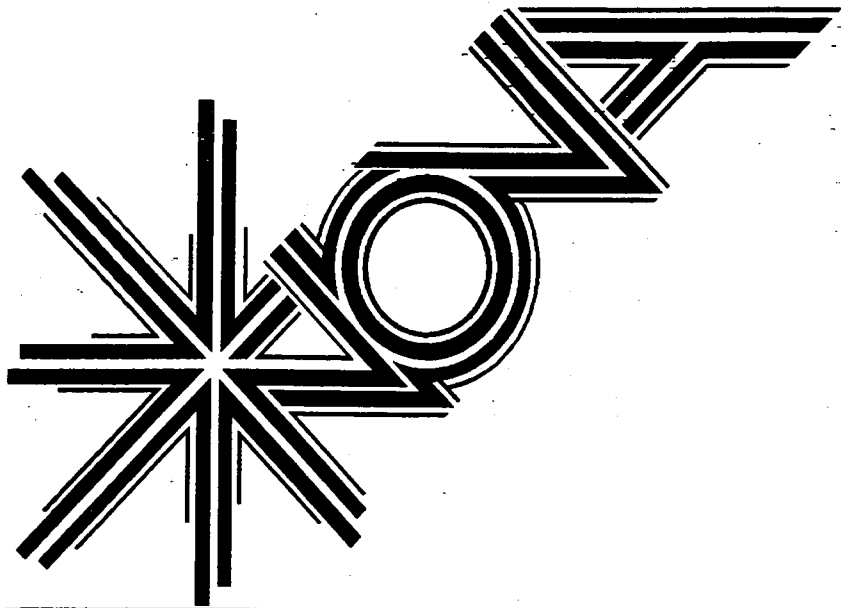
In examining the nature of catastrophe one is struck by the fact that tragedies happen and that survival depends upon our ability to reconnect with a community. That community may be one that existed prior to the disaster or it may be created by the disaster itself. Lewis Mumford's words seem to describe that need and prescribe our responsibilities:

*"The very extension of the range of community in our time, through national and worldwide organizations, only increases the need for building up, as never before, the intimate cells, the basic tissue, of social life; the family and the home, the neighborhood and the city, the work-group and the factory."*

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*Participant's Notes*





# The Public Response to Communities Facing Crisis

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# The Public Response to Communities Facing Crisis

## Introduction

On April 19, 1995, at 9:02 am, America awoke with shock to the news of the most devastating terrorist attack in U.S. history, the bombing of the Alfred P. Murrah Federal Building in Oklahoma City, which killed 168 people and injured hundreds more. This crime and its aftermath left a wake of trauma and communities throughout the United States realized their vulnerability to sudden, random violence. While it is more comfortable to retreat in denial after such a tragedy by pretending that it is an isolated phenomenon, the pervasiveness of mass or serial murders or transportation crashes caused by criminal behavior over the last fifteen years makes it incumbent that communities prepare and plan for how they will respond if such catastrophes happen to them. Every state has plans for responding to emergencies by providing physical aid and assistance, but most do not have plans for coordinating emotional aftercare for victims, witnesses and survivors who have been traumatized. This introductory review is designed to make community members more aware of the aftermath of trauma and to provide them with general information on how they might organize in preparation for when the "un-thinkable" happens.

## What Do Communities Need to Know?

Violent crime causes financial, physical and emotional harm to the individuals it touches. State victim compensation programs are available to assist with some financial losses and medical costs after physical injury but many such losses must be borne by the individual victim. In addition, individuals and their families often suffer from the shattering of their emotional and psychological well-being.

Recent research suggests that physiological reactions to traumatic events change the way the brain processes such experiences and elevates emotional responses. The increased activation of such reactions is accompanied by an inability to think clearly, so that rational decision-making becomes increasingly difficult. Common emotions manifested after violence include shock, disbelief, anger, fear,



frustration, self-blame, shame, and grief. Sometimes these feelings are so intense that people feel they are going crazy. They may regress to a childlike state. They may do and say things that seem totally out of character with their personality.

When violence affects numerous people in one community, individuals are torn apart by the trauma, and the social fabric of community life may also be damaged. Fear may inhibit mobility within the community and social functions, since people may be too frightened to go out and perform their usual activities and hobbies. Significant social institutions such as workplaces, schools, restaurants, or churches may be temporarily rendered uninhabitable or permanently destroyed. Trust in other people tends to diminish when individuals and communities are harmed due to human brutality and cruelty. While individual trauma may be defused by strong social support, when a community is traumatized, it may become difficult for community members to find support from loved ones, friends or neighbors since they are suffering simultaneously from the horror of the event. Care needs to be taken to help victims and survivors cope with their individual pain and to help them restore their sense of community with each other.

Certain segments of the population are particularly vulnerable to the impact of trauma in their lives: children, the elderly, and cultural groups who may feel that the crime particularly targeted them due to their cultural background or who may have been isolated or alienated from other social groups even before the crime happened.

A community-wide crisis may cause trauma reactions that last for years. Such reactions, including depression, fear, sleeping and eating disorders, hypervigilance (jumpiness) and others, may be exacerbated by extensive media coverage, lengthy investigations or prosecutions of the crime, civil litigation, or other tragedies that follow the crisis or may be perceived as a consequence of the initial violence.

While crisis and trauma reactions are expected following mass tragedy, immediate crisis intervention for individuals and groups can ameliorate some of the impact of tragedy, mitigate against debilitation over time, and begin the process of restoring individuals and their communities to healthy lives. Crisis intervention involves helping people begin to feel safe and secure in their homes and community, helping them develop an understanding of what happened and how it is affecting them, and helping them cooperatively develop plans for dealing with problems caused by the tragedy. Supportive counseling for individuals and groups can also help com-

munity members re-establish social bonds and improve coping skills. Supportive counseling may involve education, encouraging physical health, problem solving exercises, and facilitating spiritual quests to try to put the tragedy in perspective.

Some people may need mental health referrals and therapy to cope with long-term reactions, but many people can return to a productive life with the help of crisis counselors and response to their immediate physical and emotional needs. Crisis counselors do not need to be mental health professionals but should be trained in making preliminary assessments of mental health needs and effective referrals.

Because such institutions as the criminal justice system, the media and financial relief systems can affect the recovery of both individuals and their communities, service providers should be prepared to assist victims and survivors through advocacy for their rights to participate in response efforts and to receive services.

## **What Can a Community Do to Prepare for a Community Crisis?**

When a community crisis occurs, chaos ensues. It is important for every community to have a well-defined plan for response that details in writing what resources are available, who will coordinate a response, and what responsibilities will be assumed by which agencies or individuals. The plan should include the following twelve elements.

### **1. An Inter-Agency Task Force**

An inter-agency task force or coordinating body should be established that will be responsible for implementing the designated action steps in the plan. A hierarchy of authority and responsibility should be outlined in writing. An organization should be identified that can provide leadership and on-site coordination at any time. Mass tragedies often occur on weekends or at night so personnel should be available twenty-four hours a day. Important groups to include in the task force or coordinating body are: representatives of law enforcement, firefighters, other emergency responders, the coroner's office, the prosecutor's office, the school system, community or other mental health agencies, the clergy, state or local chap-

ters of the National Voluntary Organizations Active in Disaster, and state or local victim assistance or compensation programs.

## **2. Directory of Local, State and National Resources**

A directory should be organized with listings of local, state and national resources that can be used for assistance during a mass tragedy. It should be prioritized based on what resources should be contacted within the first twenty-four hours, in the first two days, and in the first week. Each listing should identify key contact people, telephone and facsimile numbers, and the types of help that can be provided. If possible, communities should begin to develop a database with such information such that it can be routinely updated.

## **3. An Emergency Fund**

A permanent revolving emergency fund should be developed to assist victims and survivors who have suffered physical or financial losses or who may need mental health counseling as a result of the trauma. Establishing a permanent fund will allow communities to ensure that all legal, administrative, and banking requirements are met prior to a mass tragedy and that the community can immediately solicit and process donations or contributions. Guidelines for application for emergency funds and methods for disbursement of funds should also be developed to facilitate response to victim needs.

## **4. A Community Crisis Response Team**

A team of crisis intervenors who are available twenty-four hours a day to respond to tragedy should be organized. The team should involve enough people such that eight to ten members can be ready to serve at any time. Such intervenors should receive a minimum of eighty hours of training in community-wide crisis response, participate in regular preparedness exercises, and be familiar with ongoing changes in community demographics, dynamics, and resources.

Note: crisis response team members should have written authorization from their individual agencies giving them express permission to perform response work upon little advance notification. Lack of such advance authorization can cause unnecessary delays at the time of actual crisis.

## 5. Response Identification

Badges, uniforms, or other identification materials for all potential responders to the site of mass violence should be designed so that only those designated in the plan are allowed at the site of the tragedy, shelters, or meeting places to work with victims and survivors. Guidelines for authenticating credentials at the site should be developed so that clearance of personnel is expeditious and efficient.

## 6. Guidelines for Identifying High-Risk Populations

As a part of preparedness, communities should give thought to what groups within their community may be most in need of immediate services as well as methods for providing those services as soon as possible. Such populations may include children, elderly people, rescue workers, people with mental or physical disabilities and specific cultural groups. If certain cultural groups within the community are non-English speaking, plans should be made to ensure that emergency translators can be available during a tragedy.

## 7. Designation of Response Facilities

Specific facilities should be identified that can be used for crisis response coordination, group meetings, training sessions, or special services while responding. Such facilities might include schools, churches, community buildings, training centers, hotel space. Agreements with owners of such facilities to allow their use during emergencies should be in writing.

## 8. Designation of Shelters

Current emergency plans for many jurisdictions have designations for shelters in case of natural disasters; however, such plans may not include pre-designation of alternative sites for schools or workplaces should there be a criminal attack that would necessitate it nor identification of lodging for crisis intervenors or rescue workers who may be asked to travel to the community to assist local care providers. Due to the phenomenon of convergence, it is important for communities to think through how such alternative space will be provided.

## 9. Communication

Identification of a communication headquarters and equipment for use by crisis responders prior to a tragedy is essential. Constant communication among caregivers is vital as they come in contact with individuals and groups that may need assistance. Telephone communication may be difficult without a central coordinating facility; cellular communication is often subject to malfunction due to excessive demands on service. Designate an emergency telephone number that victims and survivors can call for information and assistance. Establish telecommunication linkages through the Internet or Worldwide Web, and consider the possibility of shortwave radio as a backup if all other equipment were to fail.

## 10. Dissemination of Information

A public information team should be established and trained to help manage media coverage and disseminate information on the emotional aftermath of the tragedy. It is useful if the team could be made up of public information representatives from each of the key decision-makers that might be called upon in a tragedy, as well as a crisis response media specialist. Key decision-makers might include: a mayor's office, county commissioner's office, law enforcement agencies, prosecutor's office, and key state officials.

## 11. Morgue Facilities

Incidents of mass murders — where four or more people have died — have averaged some two each month in the United States where four or more people have died. Three tragedies in recent history have far surpassed that number: the drunk driving crash in Carrollton, KY, May 14, 1988, which killed 24 children and 3 adults; the mass shooting in Killeen, TX, October 16, 1991, in which 23 people were killed and 14 more injured; and the Oklahoma City bombing, April 19, 1995, where 168 people died and over 500 were injured. Many communities lack the facilities to deal with the bodies of the dead and arrangements need to be considered in advance for how morgues will be established and coroners will be able to accomplish their tasks.

## 12. Medical Care

Hospitals and medical emergency response care is available in most urban and suburban jurisdictions. However, immediate care may not be available in semi-rural and rural areas. Even in communities where hospital and emergency staff are available, they may not be prepared to cope with the sheer numbers of injured people that a crisis involving mass violence can generate. It is essential to identify priority care facilities that are easily accessible from anywhere in the jurisdiction. Staff at such care facilities need special training in dealing with response to mass injuries.

## Conclusion

The bombing of the federal building in Oklahoma City was an unspeakable tragedy. The outpouring of sympathy, support, and assistance from those in the Oklahoma City community, the State of Oklahoma and around the nation was heartfelt and genuine. It is hoped that never again will such an act of massive violence take place in the United States. But, the growing evidence of violence around the world, from Dunblane, Scotland, on the morning of March 13, 1996, when 16 children were randomly shot in their school, to Port Arthur, Australia, on April 28, 1996, when 35 people were shot and 19 wounded in a tourist resort, suggests that no one in any country is safe. It is hoped that the lessons learned from these communities will serve as a foundation for all communities to begin to prepare for trauma and its aftermath before it occurs.

Additional resources on national, state and local crisis response teams and their work can be obtained from:

***National Organization for Victim Assistance***

1757 Park Road, NW  
Washington, DC 20010  
(202) 232-6682 - telephone  
(202) 422-2255 - facsimile  
e-mail: nova@digex.net

***Office for Victims of Crime***

U.S. Department of Justice  
633 Indiana Avenue, NW  
Washington, DC 20531  
(202) 307-5983 - telephone  
(202) 514-6383 - facsimile

***National Voluntary Organizations Active in Disaster***

7213 Central Avenue  
Takoma Park, MD 20912  
(301) 270-6782 - telephone and facsimile