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Toward More Effective Justice

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INTRODUCTION

The California Probation, Parole and Correctional Association has developed a definitive paper outlining the association's position on the respon-

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sibilities of criminal justice agencies toward victims and witnesses. Entitled "Toward More Effective Justice," the paper focuses on how the criminal justice system can enhance its functioning and contribute to swifter, more effective justice by paying more attention to the problems and needs of victims of crime and those called into court as witnesses.

The whole issue of criminal victimization is a very serious problem. The number of victims of known criminal offenses in the past decade is equal to more than half the entire population of the state of California. More than \$15 billion a year is spent to apprehend, prosecute, defend and treat the offender, while less than one percent of that amount is spent to assist victims of crime. Untold effort has been invested in studying the offender in order to overcome the negative influences of his environment, while almost nothing has been done to learn how to ease the emotional, physical, social and economic impact of his offenses on his victims. Trials and various types of hearings are scheduled, postponed and rescheduled for the convenience of the offender and his counsel, while victims and witnesses called to testify at those hearings are not consulted, are terribly inconvenienced and often completely ignored. Where these conditions prevail—and they generally do throughout the country—the "quality of mercy" is not equally applied to victims as it is to offenders. This is a very critical situation for the confidence people have in, and the effective functioning of, the criminal justice system. It is a situation that must be drastically altered.

BACKGROUND

The California Probation, Parole and Correctional Association (CPPCA) is an organization of corrections professionals whose major goal is to improve the level of correctional practice in California through education, training, communication, public information and research. Although most of the corrections practitioner's time is spent dealing with the offender, he is very aware of and deeply concerned about the plight of the victim. Many of the victim aid programs currently operating in the state were established and are now run by corrections people. Even so, there was no formalized statement of the position of corrections personnel on the needs and problems of the victim.

In September, 1976, James Rowland, then president of CPPCA, established a committee to develop such a position statement. He wisely selected representatives from various components of the criminal justice community and secured the approval of the respective agency heads for these people to give of their time and pay their own expenses. He asked the author to chair the committee which originally consisted of: Tadini Bacigalupi, Social Advocates for Youth; Jerry Baker, El Cerrito Police Department; Sterling Boyer, Attorney General's Office; Michael Carter, San Mateo County Probation Department; Lonnie Gordon, Los Angeles County District Attorney's Office; Ann Lassiter, California Youth Authority; Tom Mangrum, San Bernardino County Probation Department; and James Rowland, Fresno County Probation Department. Technical advisors were Eugene Veglia, Richard Godegast and Norman Miller of the State Board of Control, and Thomas Condit of the California District Attorney's Association.

Subsequently, Marguerite Spears, Los Angeles County Department of Community Services, and Richard Saenz, San Bernardino County Probation Department were added to the committee, and Robert Law, Contra Costa County District Attorney's Office, served as a technical advisor.

The group met for one full day and three half-day sessions in various places for brainstorming and discussion. After the second session, the initial draft of the paper was developed and distributed. At the next session, the paper was given a different thrust which completely changed its format. This draft was circulated and committee members responded by mail. Responses were incorporated into a revision which was discussed and slightly revised at the last session. The draft was then submitted to the CPPCA Board of Directors for approval.

Meanwhile, copies of the final draft were distributed to attendees at certain workshops at the CPPCA Annual Conference in May, 1977. The topics of the selected workshops dealt with issues relating to victims, and the committee felt that people interested in those issues would be most likely to respond to the paper with constructive comments.

The paper was also one of the issues dealt with at a CPPCA-sponsored two-day Leadership Institute in September, 1977, in Sacramento. At that time, plans were made for a rather wide distribution of the paper in California to law enforcement, courts and corrections leaders, as well as key legislators and criminal justice organizations. There are other plans being made for action parallel to the distribution of this paper. These include a survey of existing victim service programs in the state, the development of a prescriptive "how to" package which will deal with creating support of such a program in a given target area and the actual implementation of it, development of training seminars for those interested in victim programs, and continued efforts at "interest raising" through publicity and offers to present programs on the issue at conferences sponsored by professional organizations.

THE POSITION OF CPPCA *

The California Probation, Parole and Correctional Association believes that the serious plight of victims of crimes must be drastically changed and that the agencies of the criminal justice system must assume leadership in bringing about the change. This responsibility is properly assumed by criminal justice agencies because:

1. They are public, tax-supported agencies; victims are usually taxpayers and deserve assistance from the agencies they financially support.
2. Law enforcement agencies generally make the first official contact with the victim after a crime has been committed. These agencies are in the most obvious position to recognize and respond to the victim's immediate needs (for example, law enforcement agencies are on duty around-the-clock, are readily available almost everywhere and are the most familiar source of emergency aid) and to direct the victim to other sources of help to deal with his long-term needs.
3. The courts are in the most advantageous position to determine the offender's responsibility to the victim, to order him to make amends and to ensure this is actually done.

* Most of this section is excerpted from the position paper.

4. To do so will improve the efficiency of criminal justice functions because private citizens are more likely to feel responsible toward and cooperate with agencies which they see as responsive to their needs.
5. If the criminal justice agencies do not assume these responsibilities, increased interest in the problem from other groups will result in other less appropriate agencies taking the lead. This would mean that others are doing what the criminal justice agencies should do—a most awkward position.

Therefore, it behooves justice system agencies to seize the opportunity to exercise responsibility in this area as it will enhance the effectiveness of the justice functions. As the public becomes aware of criminal justice agency concern for and responsiveness to those who are *not* offenders, there will be an increased sense of responsibility on its part to cooperate in reporting crimes, assisting police, acting as witnesses and serving as jurors. Public trust in the justice system will grow, resulting in greater support of justice agencies in the performance of their duties. Of course, this will not be the total answer to all the problems of the criminal justice system, but it can go a long way toward resolving some of the most perplexing problems. This is the major reason for addressing this position paper primarily to the agencies and practitioners of the criminal justice system.

Justice functions may also be enhanced as the result of new data gathered in the course of more involvement with victims and witnesses. Criminal justice data, as now compiled, is notoriously weak and inadequate with significant areas remaining unknown. The more we know of the actions and feelings of victims and witnesses, the more complete is our picture of the impact of crime. More direct contact with and effort to assist victims and witnesses can aid in gathering some of the information needed to complete the picture. This has important implications for long-term criminal justice planning and for more effective criminal sentencing practices—both of which will enhance justice functions.

CPPCA further believes that we must take an advocacy stance regarding victims and witnesses—we must stand with them and make our voice heard on their behalf. This does not mean we want to diminish concern with or responsibility for the offender and his rights; these must be protected if we hope to provide protection of the basic civil rights of *all* citizens. This stance also means we are convinced that dramatic changes are necessary and that we will not only advocate change where needed, but will support meaningful action programs to bring it about. It means we are ready to sponsor and aggressively pursue necessary legislative changes and are ready to assist in the development and implementation of programs to provide crucial services to victims and witnesses. Through such activity we hope to serve as a catalyst for meaningful action programs throughout the state to recognize and respond to an age-old but too-long-neglected area of concern.

Some Changes Are Essential

There are many areas of problems for victims which are of deep concern to us and in which immediate changes are necessary if the criminal justice system is to be responsive to community needs, thereby becoming a more viable force for improving the quality of life for all citizens. Fortunately, most of these changes can be made with very little additional cost to the system because they largely involve modification of some attitudes and

adjustment of some practices. This can usually be accomplished within existing operational frameworks, the small investment returning great dividends.

As much as anything else the victim needs greater understanding from everyone in the criminal justice field, and understanding does not cost much! We must be intensely aware of the untold physical suffering of victims of rapes, assaults and abuse; we must feel with the victim his mental anguish at the knowledge of his vulnerability; we must see the overwhelming financial impact on the victim resulting from property losses, damages to home or other possessions, loss of income from missed work and medical bills which are often staggering. Victims are the most neglected persons caught up in the processes of the justice system; they are the ones who suffer most from the hands of those who are the central focus of the process—the offender. People and agencies involved in the justice system must not ignore the plight of victims or be indifferent to the suffering, loss and dehumanizing treatment to which they are subjected. We cannot continue the neglect which often amounts to their being victimized again—this time by the justice system itself!

Every contact by agents of the justice system with victims *must* be characterized by sensitivity and compassion toward their situation. They must be treated with the courtesy, patience and dignity which are the rights of every citizen. The victim's integrity as a worthwhile human being must be protected, because nothing in the unfortunate circumstance of becoming a victim justifies denial of such protection.

The victims deserve, and it is the responsibility of the criminal justice system to provide, sufficient explanation of procedures to enable them to understand what is happening. This includes rationales for why investigators must ask what seem to be very personal questions; explanations of the meaning of subpoenas, any obligation to respond and possible alternative methods of response; directions to the location of facilities at which they must appear for questioning or to testify; timely notification of known continuances of the case in order to minimize unnecessary expense and loss of time; in-depth explanation of the victim's role in court procedures; and notification of the status of the case as it moves through the justice system. Every involved agency should promptly notify the victim of the disposition of any case terminating at its level.

Closely related to such explanations is the responsibility to advise victims of all their rights in the justice process. There must, for example, be prompt and clear notification of indemnification processes provided by the Victim of Violent Crime Compensation Law. Notification of emergency funds and/or services available in the community to respond to the needs of the victim and of common methods for recouping losses should be standard operating procedure for justice agencies. Victims should be advised of, and effort made to protect, any legal rights they have regarding privacy, self-incrimination, civil actions or personal issues not relevant to prosecution or defense in the case.

An outlet for expressing feelings about what has happened must be provided to the victim. This begins with provision of ways for victims to report the crime without undue fear of reprisal or harassment, and includes a

channel through which they can communicate to the appropriate authorities comments and feelings about the case in general—after all, *they* are the suffering victims. Victims should be given opportunity to air their views about disposition of the case, especially if some kind of diversion program is considered. There must be a channel, perhaps the probation report, through which they can let the court know the real impact of the crime on them, including an assessment of the physical, psychological and financial needs resulting from the offense. Part of this process must also be information of the offender's current and immediate future potential to make restitution for his offense. The growing population of victims and their increasingly vehement articulation of their needs, of how they have been neglected by the justice system and of their frustrations over what they see as the misuse of their tax dollars, all mandate genuine concern and immediate response from the entire criminal justice system.

There are also areas in which more direct service to victims should be provided, as in prompt response to the report of the crime and immediate attention to any emergency services required, such as emergency transportation for medical care and notification to relatives or employer of the emergency. In some instances someone must be found to temporarily care for minor children of the victim or to maintain security checks on the victim's home while no one is there. Effort should be made to expeditiously return to the victim property recovered or seized as evidence, because deprivation of such property often works a hardship on the victim. This could often be done if proper photographs are made of the evidence needed for later trial proceedings. Applications for indemnification through the Victim of Violent Crime Compensation Law should be processed as speedily and fairly as possible with the victim being kept apprised of the status of the claim. Restitution to the victim by the offender should be a consideration of sentence in every case, especially where probation is granted. It should also be considered as a part of parole conditions if still unsatisfied at that point. Criminal justice agencies, especially courts and probation and parole agencies, must diligently work to insure the payment of restitution to avoid more expense to the victim in pursuing his claim through civil action.

Another important group often overlooked by the justice system is witnesses—those who have crucial knowledge about a crime but who are not the victims of it. It is, of course, unusual that a witness would suffer the pain or loss of the victim, but he is probably just as much inconvenienced and put upon by the processes of sometimes slow-moving justice. The specific interest of the justice system in witnesses is different in some respects than in victims. Generally, once an offender has been convicted, the role of the witness is complete; but the hurt and loss of the victim may continue for a long time. The impact of the crime is usually a much greater trauma for the victim than for the witness, so the need and scope of services will differ. Both are needed in the trial process for proper conduct of the effort to establish responsibility for the crime; without complainants and/or witnesses to give testimony, many offenders would not be brought to justice. Yet the indifference, rudeness, inconvenience of postponed hearings without prior notice and lack of concern by the justice system often discourage

or drive away these needed witnesses, which hampers the effective functioning of the processes of justice.

Witnesses are entitled to the same compassionate concern, courtesy and respect as are victims; they, too, need explanations of the role they are to play in court processes and advisement of any legal rights they have so they may be protected from unnecessary infringement on those rights. They are also entitled to directions, instructions, advance notice of known continuances or even resubpoena, and periodic update of the status of cases necessarily extended. It may sometimes be necessary to intervene with an employer on behalf of the witness, especially if he is required to miss work often. Provisions should be made for free parking and even child care while the witnesses appear in court. They should always be given the courtesy of being informed of the disposition of the matter in which they testify. Although witnesses may not normally require the same direct services appropriate to victims, they are deserving of consideration and must not be neglected by the criminal justice system.

Discharging Our Responsibilities

Much of what needs to be done to implement the principles discussed above can be accomplished within the framework of present law and justice system procedures. Development of greater and more compassionate understanding of the victim's plight does not require procedural changes, but will involve some education on the issue for justice system practitioners.

Caring, concern, courtesy, respect for the dignity of the person cost nothing in materials and manpower and very little in time and effort—and we cannot afford to neglect the resultant changes in attitude and practice which cost so little and promise to return so much. It will be necessary to broaden some present policies and procedures, but with the full support of agency policy makers, this could be quite easily accomplished.

Many of the necessary changes would come about quite easily as every criminal justice agency realized that it would be fulfilling its task—not neglecting it—in shifting some of its focus from the offender to the victim. While the justice system is intended to try to apprehend, convict and correct the offender, the very concept of justice requires that it also endeavor to protect every citizen, including victims and witnesses. As we come more and more to realize that we cannot always rehabilitate offenders, some of the resources gained from that recognition should be allocated to respond to victims and give them a higher priority of concern than in the past.

Some general public education will also be necessary, but this, too, is not costly. As justice agencies begin to respond more sensitively to victims, they will spread the word—and there is no better method of advertising. The news media will become more interested in such efforts and provide much free publicity, resulting in more requests from groups for further explanation. Thus, justice system agencies will help educate the public while reaping excellent public relation benefits.

CPPCA believes that the most effective way for the justice system to accomplish these goals is through a central coordinating person or agency specifically charged with bringing together the need and services designed to meet it. This should be a public or private organization which is inde-

pendent and project-oriented, although it could be structurally affiliated with an existing criminal justice agency. This relationship would provide official sanction and would facilitate interagency cooperation and coordination throughout the justice system. It would also help to eliminate problems of confidentiality of data—information necessary to any victim/witness aid program. This approach would provide an agency able to take the victim through the justice system processes from beginning to end without his being handed over from one agency to another, thereby impairing continuity or possibly losing rapport with the victim.

Such a victim/witness aid agency should be organized on a county level as this is the natural geographical and political jurisdiction for courts, prosecutors, most defense attorneys, law enforcement (city boundaries are within county boundaries), probation and public welfare departments and school districts, among others. In most counties, this would constitute an agency of manageable size and scope; however, in larger metropolitan areas it could be a neighborhood based agency in order to get more directly to where needs, resources and motivation are to be found and most effectively brought together. In every case, a victim/witness advocacy program must be geared to the local situation because different areas require different approaches.

SOME IMPORTANT IMPLICATIONS

There are several aspects of this position paper which make it a noteworthy endeavor. Obviously the subject matter, for so long neglected, makes this paper an important document for consideration by all criminal justice agencies, as well as politicians and the general public. The implications of this paper were considered significant enough to warrant its presentation in a major address at the National Victim Services Conference held in Akron, Ohio in August, 1977.

The paper is an interagency product. It was developed by representatives from many different types of groups all having very close contact with the victims of crime. Most of these agencies are integral parts of the criminal justice system, whose focus by definition is primarily on the offender. The detailed expression of concern for the victim and the development of strategy to carry out that concern probably represent a first for a group of agencies from the criminal justice system.

Another significant aspect of the paper is its advocacy stance. An advocate is one who pleads the cause of another or who argues for a particular cause. This is precisely what the paper does and was intended to do. It is time for those who are in the position to see the impact of crime on the victim to take a firm stand on his behalf and work to bring about the legal and social changes necessary to some alleviation of his unfortunate circumstances.

There is a crime prevention facet to this concept in that such action on behalf of the victim will help to improve relations between the agencies of the criminal justice system and the general public. In turn, the public will be more willing to cooperate with law enforcement, report crimes and/or suspicious circumstances, testify in court hearings and be more supportive of a justice system which is concerned about those feeling the impact of crime.

The paper stresses the improvement of the justice system through a deeper concern for and action on behalf of the victim of the crime rather than added emphasis on the offender or the processes of the system. This is not to imply any diminution of concern for the rights of the offender or of the justice system's responsibilities toward him. For the sake of every individual in society, such rights must be protected and such responsibilities conscientiously discharged. However, there is no reason why the justice system cannot be concerned for both offender and victim at the same time.

CPPCA believes the issues in this paper are vitally important and that the criminal justice system has a responsibility to address and respond to them. We intend to pursue these issues and invite all justice system personnel to join us. As part of this intention, we will make available copies of the position paper to those who request them, either from the CPPCA, P.O. Box 927, Sacramento, 95804 or the author at 175 West 5th Street, San Bernardino, 92415.



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