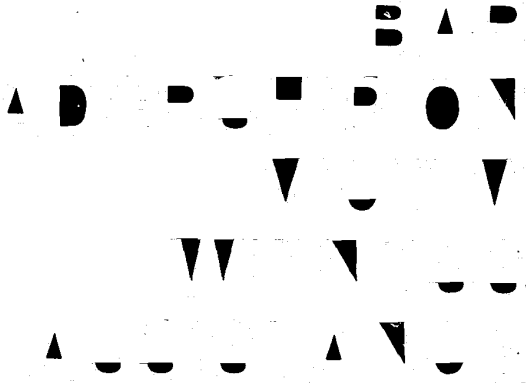


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A CRIMINAL JUSTICE
IMPROVEMENT MANUAL
FOR STATE AND LOCAL
BAR ASSOCIATIONS

**✓ BAR LEADERSHIP
ON
VICTIM WITNESS ASSISTANCE**

**A
Criminal Justice Improvement Publication
for
State and Local Bar Associations**

NCJRS

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ACQUISITIONS

*Prepared by
The Victim Witness Assistance Project
of the
American Bar Association
Section of Criminal Justice*

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FOREWORD

For many victims and witnesses of crimes, the crime is only the beginning of a lengthy, traumatic experience. Unfortunately, their contact with the criminal justice system may magnify their tragedy. Surprisingly, only a few bar associations have organized victim witness assistance programs. The question is "why?", since victim witness assistance should be of great concern to lawyers and the organized bar for several reasons:

- Victims and witnesses are indispensable in helping to identify, apprehend and convict perpetrators of crime; by helping them, bars would encourage their cooperation.
- As an integral part of the legal system and as officers of the court, lawyers have an obligation to make the system responsive to those individuals it should be serving.
- Bars already have the contacts, the influence and the "know how" to improve the system's treatment of victims and witnesses; moreover, many effective types of assistance require little or no expenditures.
- Victim witness assistance programs are easily comprehended and almost universally lauded by the community.
- Crime affects everybody, including lawyers, and *all* members of the bar—civil as well as criminal practitioners—can effectively participate in bar programs for victim witness assistance.
- By helping to restore public confidence in criminal justice, bar efforts in victim witness assistance would benefit the entire legal profession.

In formulating an answer to the question of why many bar associations have not been involved in victim witness assistance, it seems logical to assume that: (1) many bars are unaware of the problems of crime victims and witnesses, and (2) many of those which are aware of the problems do not know how to solve them.

On the basis of these two assumptions, this manual was written to increase bar awareness of victim witness problems and to offer a number of practical suggestions for effective bar involvement.

The manual strikes a balanced view of the need for reform by demonstrating a sensitivity for the needs of the defense as well as those of the prosecution. Moreover, it encourages *all* lawyers—those involved in defense, prosecution and civil practice—to play an active role in planning, developing and operating programs to improve the quality of justice.

Though brief, the manual attempts to take a comprehensive approach: it examines past efforts to improve the treatment of victims and witnesses; suggests special reasons for bar involvement; provides specific guidance on the creation of bar committees on victim witness assistance; and describes actual programs which bars can operate themselves or in cooperation with other public or private agencies. Finally, it makes a number of practical suggestions for financing victim witness assistance programs.

The manual was developed by the Criminal Justice Section's Victim Witness Assistance Project, an outgrowth of several previous Section activities to improve the plight of crime victims and witnesses. These included a 1977 ABA Annual Meeting program on "Victims of Crime or Victims of Justice?" and two

days of hearings which I chaired in June 1970 on "Reducing Victim and Witness Intimidation."

I trust that the leaders and members of the state and local bars will review carefully the program ideas in the following chapters and will then join in the long-overdue and sorely-needed effort to assist crime victims and witnesses.

S. Shepherd Tate
Immediate Past President
American Bar Association
May, 1980

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A Crime

SCENE

Parking lot of shopping mall in suburb of middle-sized U.S. city. Dusk.

ACTION

As a woman of late middle-age searches her purse for her car keys, she is approached by a knife-wielding juvenile male. The juvenile orders the woman to hand over her keyring. She hesitates, and is struck in the head, causing her to fall to the pavement. The youth picks up the keys and the purse, gets into the woman's car and drives away. The woman lies semiconscious on the ground for fifteen minutes until discovered by another shopper.

FOLLOW-UP: THE ASSAILANT

Through luck and a description provided by the hospitalized victim, the assailant is apprehended by the police within forty-eight hours. The victim identifies him from a series of photographs.

Being without funds, the juvenile is provided court-appointed counsel. He is examined by a physician and a psychiatrist.

Because he is a first offender—notwithstanding a long record of various “troubles”—initial screening indicates that the juvenile qualifies for a special “probation without verdict” program. After appropriate consultation with court officials, the prosecutor's office enrolls him. The program requires the youth to present himself on a routine basis for therapy sessions with a psychiatric social worker. The sessions are paid for by a special model offender rehabilitation program.

The juvenile is also required to enroll in a vocational training program which, if successfully completed, will provide him job placement services. This program, too, is available without cost to the offender.

If the youth fails to satisfy the conditions of his “probation without verdict”, his criminal case will be re-docketed and finally adjudicated. However, if he successfully completes it, he will be entitled to petition for the expungement of his arrest record.

FOLLOW-UP: THE VICTIM

Once discovered, the woman is rushed by ambulance to the nearest hospital. Doctors find that she has sustained a severe concussion, a fractured hip and numerous abrasions. She is informed that, because of her age and the severity of her hip fracture, she will probably be incapacitated for months.

Several days later, she is told by police that her apartment has been burglarized, and the stolen keyring found in the stairwell of the building.

The hospital and doctor bills resulting from the attack are staggering to the woman whose income as a drugstore clerk is modest. She receives no public assistance to help her meet these expenses, and her insurance coverage falls far short of the balance.

In addition to severe physical pain and incapacitation, she suffers considerable psychic trauma; however, no psychiatric services are provided to her to help her come to grips with these fears.

The state in which the woman resides has a victim compensation program under which she is entitled to at least minimal financial assistance; however, because no one tells her about the program, she does not apply.

Compounding the pain, financial worries and fear she is enduring, the woman suffers further isolation and feelings of helplessness over the fate of her assailant. She was not consulted about his enrollment in the "probation without verdict" program. She learns from friends that he was not tried, but no official explains why. Nor does anyone advise her what she should do if the juvenile, who is now back on the street, should bother or threaten her.

OBSERVATION AND QUERY

Many changes in criminal justice over the past decade or two which benefit defendants have come about through the diligent efforts of the organized bar. *Cannot—and should not—the bar be equally conscientious and effective in working to assist victims and witnesses?*

CHAPTER 1

Overview and Introduction

The Problem

Once the excitement has died down, once the police or other authorities have arrived, once, in short, the "system" has taken over—what does it mean to be a crime victim or witness in the United States?

Leaving aside the direct consequences of the crime itself and considering only the person's subsequent involvement with the criminal justice system, the answer is still—"it depends."

For the lawyer, physician, government official or business person, it usually means an inconvenient and perhaps annoying disruption in routine made as comfortable as possible by a variety of law enforcement, prosecution and court officials. Not infrequently this class of influential victims and witnesses has the benefit of private counsel.

However, for the "ordinary" American who makes up the vast majority of our citizenry, it means much more. While also disruptive, the average person's experience is unlikely to be so "comfortably" disruptive. Moreover, it will probably include some, if not all, of the following:

- Official indifference concerning matters of little relevance to the "case," but of grave importance to the victim, such as retrieval of stolen property and advice about victim compensation;
- Insensitive, adverse questioning by police and other law enforcement officials who may harbor a "guilty victim" syndrome—a feeling that the victim is responsible for his or her victimization;
- Perfunctory, summary and insensitive interviewing by prosecutors who also may feel that the person has somehow "asked" to be victimized;
- Poorly coordinated, conflicting, repetitive and usually unexplained summonses;
- Uncomfortable and insecure accommodations at the police station or in the courthouse, often involving close proximity to defendants, associates of defendants, or adverse witnesses;
- Lack of clear, lay explanations of proceedings and decisions during and after the case;
- Fear resulting from real or imagined intimidating threats and acts by defendants, or, in the case of defense witnesses, by police, prosecutors or other persons with an adverse interest; and,
- Lack of special services for special classes of crime victims, such as the elderly, abused children, and sexually-assaulted persons.

The above are only examples of the problems faced by many crime victims and witnesses. There are many more. Unfortunately, the type of situation described

in the October 11, 1979 issue of the *Washington Post* is not as uncommon as one might expect:

With a hint of apology and the words 'not guilty' a Maryland judge yesterday closed the case of a witness to a crime who was arrested when she missed a court appearance after waiting out four prior court delays.

Lawyers may understand what happened in this particular case, but they should neither accept nor tolerate it just as they should neither accept nor tolerate practices which attempt to deny defendants their rights.

Writing in the "President's Page" of the April 1979 *ABA Journal*, then-ABA President Shepherd Tate pinpointed the legal profession's two-fold responsibility in assisting victims and witnesses:

On the one hand, we need to make the criminal justice system more responsive to the needs of those it should be serving. On the other, victims and witnesses are indispensable to the system's ability to function; we need their cooperation in reporting crime and in helping to identify, apprehend, and convict perpetrators of crime.

Contrary to a current cliché, victims are not so much forgotten by our criminal justice system as they are used by it. Clearly, victims and witnesses play important roles in criminal jurisprudence. Their statements and testimony are the crucial elements in many criminal cases. They are questioned, re-questioned, badgered, summoned, dismissed, recalled—usually without explanation or consultation—and finally, they are figuratively if not literally filed away. In short, they are relegated to the same category or status of any other article of evidence in the case.

Victims and witnesses are the only actors within the criminal justice process lacking guidance, whether it be from constituents, clients, or counsel. The police generally answer to elected officials and, through those officials, discharge peace-keeping services on behalf of the public. Prosecutors, who are usually elected, represent a personified political entity (the "people," the "Commonwealth," etc.). Judges, whether elected or appointed, display within their courts symbols of governmental power and are, after all, paid by the government. Defendants generally are represented by private or appointed counsel. Only victims and witnesses are left to flounder through the experience alone, unaided, and without a clearly defined role.

While there are existing, limited, civil administrative remedies addressing in part the financial plight of crime victims, few victims are aware of their right to bring suit for financial relief. Moreover, even if "successfully" employed, such remedies are seldom of practical significance. Most criminal defendants are indigent and thus "judgment proof." (The emerging field of victim rights litigation has had some success in circumventing this problem through suits against non-indigent, responsible third parties such as innkeepers whose establishments lack adequate security.)

Financial restitution tied to criminal penalties may be more profitable than civil suits, though the victim's actual relief is still likely to be extremely limited if the defendant has few or no resources to tap.

Toward A Solution

By tolerating shabby and indifferent treatment for crime victims and witnesses, the legal profession has contributed to the problem. *It is time for the profession to contribute to a solution.* Indeed, real and long-lasting reform in the legal system's overall approach to victims and witnesses can be effected *if and only if* the nation's lawyers—through the organized bar—become involved.

Lawyers cannot undo the criminal wrongs inflicted upon victims. They can, however, see to it that the wrongs cease with the initial criminal act. This means, first and foremost, recognizing and working to change the "guilty victim" and "article of evidence" attitudes mentioned above. It means seeing to it that the system and its actors pay more attention to the security, convenience and comfort of the victim. It also means ensuring that all who work within our criminal justice institutions are frequently reminded that they are public servants and that victims and witnesses are treated as "clients" of the criminal justice system.

The nation's organized bar at all levels can take justifiable pride in the fact that its members have struggled diligently over the past several decades to protect the rights of criminal defendants and persons convicted of crime. Efforts in this area should continue. There is, however, nothing incompatible in simultaneous efforts to assist crime victims and witnesses. The benefits of such assistance will accrue to defense witnesses as well as to prosecution witnesses.

If the bar fails to provide leadership in this area of criminal justice reform, it will miss a promising opportunity to demonstrate once again that it recognizes the public service responsibilities inherent in the legal profession and acknowledges that all lawyers—prosecution, defense and civil—play a crucial and pivotal role in making certain that an evolving legal system works for the public good.

We offer this *Bar Leadership Manual* as a working document to provide state and local bar associations *specific suggestions* for establishing, improving and coordinating victim witness assistance activities within the bar itself, within police, prosecution, defense and judicial agencies and within other public or private organizations. The numerous program suggestions the Manual contains are not universally applicable; they can and should be altered to meet local needs and conditions.

CHAPTER 2

Victim Witness Assistance Background

Crime and fear of crime became major domestic political issues in the early 1960's. Public perceptions were sharpened by rising political rhetoric and exhortations urged individuals and institutions to enlist in a national "war on crime."

In December, 1966 and February, 1967, the President's Commission on Crime in the District of Columbia and the President's Commission on Law Enforcement and Administration of Justice issued their voluminous reports providing battle plans for mounting a concerted attack on crime and delinquency. These two distinguished commissions proposed courses of action to strengthen law enforcement, prevent and control crime, and improve the administration of justice.

In analyzing criminal justice defects and suggesting remedies, both of these commissions paid scrupulous attention to the individual rights of defendants. Neither, however, dwelt at any length on significant measures to improve the system's treatment of victims and witnesses. Moreover, the March, 1978 report of yet a third Presidential body, the National Advisory Commission on Civil Disorders, failed to mention explicitly the plight of crime victims and witnesses as a factor contributing to the public's lack of confidence in the courts—a lack of confidence which the commission addressed expressly.

The inattentiveness of these national blue-ribbon commissions to issues involving crime victims and witnesses is not, historically speaking, surprising. At that time, *crime* was the issue. It would still be several years before the "victim movement" was born. (There are those who still suspect that the origins of the so-called victim movement were shrouded in the mists of the country's flirtation with law and order rhetoric and that the real message being conveyed was "get tough with offenders." While that judgment will best be left to social historians, the message of this manual has no double meaning but suggests simply that the bar can and should become involved in efforts to improve overall treatment to crime victims and to both prosecution and defense witnesses.) For whatever reasons, at least a part of the national preoccupation with crime became focused on crime victims and that focus rested on the individual, personal consequences of crime and its aftermath. Most earlier statements and thinking had addressed the problem in collective, nonpersonal terms.

The voices calling for crime victim assistance began to be heeded in a significant way during the early 1970's. Slogans, rhetoric and other expressions of "concern" were, at long last, being translated into affirmative action programs. Most importantly, serious and informed professionals were becoming increasingly aware that meaningful victim witness assistance measures could be undertaken without impinging upon or denigrating the hard-won and fundamental rights of criminal suspects and defendants.

Federal Initiatives

The federal government's principal effort to help crime victims was generated and financed by the Law Enforcement Assistance Administration (LEAA) created by the Omnibus Crime Control and Safe Streets Act of 1968. The method employed was a multiple front offensive which involved financing a number of model "action" programs. In fact, the assault was more of a tactical than a strategic offensive. The final objective of the campaign—"to help victims"—was laudable but loosely defined.

Nonetheless, the campaign was successful in some respects. Several of the high visibility victim witness assistance projects sponsored by LEAA spawned auxiliary projects. In addition, the LEAA effort created—or at least gave focus to—a climate of opinion conducive to reform. And finally, the impetus of federal "seed money" grants encouraged criminal justice institutions, and most notably prosecutors, to reassess their missions and functions.

The panoply of remedial measures fostered by LEAA included efforts to design and operate:

- Victim Witness Reception Centers (decent and comfortable waiting facilities where victims and witnesses could await court appearances in a secure atmosphere);
- Victim Counseling Programs (both general and special counseling services, e.g., information regarding general procedures and specialized counseling services for victims of major crimes such as rape);
- Property Return Programs designed to expedite the return of recovered property;
- Witness Telephone Alert Systems to reduce unnecessary and counter-productive waiting periods;
- Mail Subpoena Systems to reduce law enforcement personnel hours spent in personal service of subpoenas; and,
- Social Service Referral Systems designed to direct victims to agencies which can render effective aid.

As the 1980's approach, the federal government—again through the Law Enforcement Assistance Administration—has initiated activities designed to institutionalize reforms made through previous LEAA support for a variety of *ad hoc* programs. The most recent federal effort has been to fund clusters of Statewide Victim Witness Assistance Network programs and clusters of so-called National Non-Governmental Organization programs.

In general, the purpose of these broad-based efforts is to encourage local program implementation and coordination with the assistance of high visibility, low cost programs. Moreover, a major thrust of the new national strategy is to collect and widely distribute knowledge and "how-to-do-it" information concerning successful victim witness assistance program concepts.

The State Role

The federal government alone cannot bring about the required reform in the treatment of crime victims and witnesses. Nor in the last analysis is the matter even truly a federal one. State-level institutions also have an obligation in the victim witness assistance arena.

For the most part, state action in victim witness assistance activities has not been conspicuous, although in recent years many states have taken steps to enact various kinds of crime victim compensation statutes (see Appendix 2). States can, and should, create Victim Witness Assistance Coordinating Councils to plan and develop systematic changes within the criminal justice system to accommodate the needs of crime victims and witnesses. State bar associations can play a leading role in the development of such Councils.

State bar association involvement can encourage major state criminal justice institutions and other governmental agencies to participate in a planned and coordinated attack upon a host of practices which have historically complicated the passage of crime victims and witnesses through the criminal justice system. In addition, state bar associations can serve as clearinghouses for the dissemination of information to local bar associations and to other agencies and can provide required coordination among such groups.

The Community Role

While hundreds, if not thousands, of victim witness assistance programs have sprung up in local communities across the country, many of these programs have operated without benefit of interaction with other similar programs. Community organizations, civic groups and various citizen-based units can play vital roles in securing and providing assistance to crime victims and witnesses.

Within the past decade there have been important changes in the ways in which the criminal justice system handles certain kinds of criminal offenses. Citizen-based programs—mainly sponsored by women—have been primarily responsible for humanizing the criminal justice system's treatment of rape victims. Additionally, citizen groups have begun to alter the system's traditional way of looking at spouse and child abuse offenses. These are more than minor changes and in large measure they would not have come about without the contributions of interested and involved citizens.

The bar should make efforts to encourage and support the participation of local citizen-based organizations in victim witness assistance programs. Elsewhere in this Manual the relationships between these groups and the organized bar are discussed. Such relationships are important and the bar should assist these organizations in identifying participatory roles.

Most criminal justice in America is dispensed at the local level and, for most Americans, impressions about the criminal justice system emanate not from the Supreme Court but from municipal and circuit courts. It follows that the most effective programs to reduce burdens on crime victims and witnesses will be programs operated in local communities across the country. And it is precisely at that level that the bar can render its most effective assistance.

CHAPTER 3

The Role and Function of the Organized Bar

Why Should the Bar Be Involved?

Even members of the bar convinced that crime victims and witnesses deserve better treatment than they are receiving may question the appropriateness of bar involvement in seeking improvements. "Why should the *bar* undertake these activities?" The question deserves consideration and requires more than a single answer. "Answers" include the following special bar interests in victim witness assistance:

- Public confidence in the courts and criminal justice institutions—and, by extension, the legal profession as a whole—is undermined by indifferent, coldly bureaucratic and arrogant treatment of victims and witnesses;
- The voluntary cooperation of victims and witnesses is essential to a fair and effective criminal justice system; and
- Better, more considerate treatment for victims and witnesses (prosecution and defense) will encourage such involvement.

Unique Qualifications of the Bar

The organized bar has unique qualifications to assume a leadership role in effecting fundamental changes in the criminal justice system's perception and treatment of crime victims and witnesses. Its members have access to both the criminal and civil side of the legal system. As "insiders," they know who the principal actors are, where the power resides, and how the system works.

While *ad hoc* "outsider" programs which spring up as a result of public and political pressures have a potential for hardening rather than ameliorating existing attitudes and procedures, bar members are armed with historical and legal frames of reference to foster the right kind of advocacy for change: an advocacy at odds with inequitable practices but not at odds with the basic institutions indulging such practices.

In addition to "insider" knowledge, bar association members have an "insider's" stake in the system, a stake which gives them added credibility with criminal justice officials and administrators.

At the same time, bar members are frequently influential citizens with close personal and professional ties to civic, professional and business institutions.

Through the volunteer services of their members, bars can provide *pro bono*, reduced fee or contingency fee assistance to individuals and programs. As officers of the court all attorneys, and particularly those who do not normally practice in the criminal courts, have the opportunity and obligation to participate in bar-sponsored victim witness activities.

And finally, bar associations are extremely influential in marshalling the community's legal opinion behind a given issue.

Role of the Bar

There are many ways in which the bar, through a formally established Victim Witness Assistance Committee, can provide professional services in the victim/witness area. For instance, the bar might function as:

- Teacher;
- Innovator/Developer;
- Operator;
- Catalyst;
- Coordinator; and,
- Monitor/Evaluator.

The Bar As Teacher

Through its Victim Witness Assistance Committee, the bar can provide valuable public information and education services. Specifically, it might:

- Develop, print and distribute a jurisdiction-wide catalog of all existing social service, criminal justice and other public and private programs which directly or indirectly offer services for crime victims. This kind of *CRIME VICTIM ASSISTANCE CATALOG* should: be in lay language; succinctly list the actual services; set forth clear eligibility requirements; and, give names, addresses and telephone numbers of program contacts;
- Develop, package and conduct a brief *CRIMINAL JUSTICE TRAINING INSTITUTE* for interested civic and citizen-based groups undertaking victim witness assistance programs. This kind of institute curriculum could be developed in cooperation with local police, prosecution and court agencies and would be offered as a *pro bono* service by the bar association;
- Plan, develop and conduct a *PUBLIC FORUM ON CRIME VICTIMS* (or a series of forums) to: acquaint the public with issues; afford individual citizens and groups a highly visible platform; and publicize the bar association's program to help crime victims and witnesses;
- In concert with local Boards of Education develop a series of short *CIVICS-GOVERNMENT LECTURES* for elementary, junior high and high school audiences dealing with criminal justice and crime victims;
- In cooperation with local foundations, corporations and charitable organizations develop a series of informative *PUBLICATIONS AND/OR MEDIA ADVERTISEMENTS*; and
- Through regular or special bar publications develop professional *CONTINUING LEGAL EDUCATION MATERIALS* to inform and advise the bar of the burgeoning *VICTIMS RIGHTS LITIGATION* area.

Any materials (movies, slide presentations, closed circuit television presentations, brochures, manuals, posters, catalogs, etc.) developed in connection with these efforts should be appropriately distributed. Suggested distribution points include police stations, district attorneys offices, public defender offices, courts,

libraries, schools, and church and civic organizations. Moreover, where necessary, the materials should be made available in foreign language editions to accommodate the needs of non-English-speaking persons.

The Bar As Innovator/Developer

No organization within a community is better equipped than the bar association to assess the adequacy of criminal justice institutional performance and to design innovative programs which can be implemented by police, prosecution, defense, court and public and private social service or civic organizations. For instance, through its Victim Witness Assistance Committee, the bar can:

- Plan, develop and conduct a *VICTIM WITNESS SURVEY* to determine needs, obtain points of view from actual victims and witnesses and assess the nature and quality of existing assistance programs;
- Plan and conduct a *SURVEY/INTERVIEW OF CRIMINAL JUSTICE INSTITUTION OFFICIALS AND ADMINISTRATORS* (police, prosecution, public defenders and court agencies) to assess the nature and quality of existing agency practices and procedures and to determine "official" attitudes;
- Plan and conduct a meeting with criminal justice agency officials to explore avenues for *BAR-CRIMINAL JUSTICE COOPERATION* and to suggest a variety of brief *VICTIM WITNESS ASSISTANCE PROGRAM BLUEPRINTS*;
- Plan and conduct meetings with other public and private social service, civic and citizen-based organizations to explore avenues for *BAR-ORGANIZATIONAL COOPERATION* and to suggest a variety of brief *VICTIM WITNESS ASSISTANCE PROGRAM BLUEPRINTS*; and
- Plan and conduct a series of *JOINT CRIMINAL JUSTICE AND CITIZEN-BASED GROUP MEETINGS* to assist in developing cooperative programs.

The Bar As Program Operator

Through its Victim Witness Assistance Committee, the bar can run various programs to provide direct and indirect services to crime victims and witnesses. For instance, it might:

- Adapt *EXISTING LAWYER REFERRAL AND OTHER BAR DELIVERY SERVICES* to accommodate the needs of victims and witnesses;
- Establish and operate a formal *VICTIM WITNESS INFORMATION AND REFERRAL SERVICE*, utilizing bar volunteers, paralegals and specially trained lay volunteers;
- Establish and operate a *VICTIM WITNESS HOTLINE*;
- Establish and operate a formal *VICTIM COUNSELING SERVICE*;
- Establish and provide a *TECHNICAL ASSISTANCE SERVICE* for non-governmental victim witness assistance programs; and
- Provide legal advice and counsel to non-governmental victim witness assistance programs.

The Bar As Program Catalyst

The bar, through its Victim Witness Assistance Committee, can play an activist role in assisting in the overall development of programs within and among criminal justice, social service and other public and private organizations. As catalyst, the bar can:

- Create the necessary *CLIMATE OF OPINION* for the creation of programs through its public education efforts;
- Develop *REGULAR LIAISONS* with a wide variety of civic and professional groups in order to stimulate interagency victim witness assistance programs;
- Create *ALLIANCES BETWEEN PUBLIC AND PRIVATE ORGANIZATIONS*; and
- Render *TECHNICAL ASSISTANCE* to other agencies establishing programs.

The Bar As Coordinator

Because its members have formal or informal contacts in all areas of the criminal justice system, it follows that bar associations are in a unique position to provide informal coordinating services on a jurisdiction-wide basis for all victim witness assistance activities. As coordinator, the bar's Victim Witness Assistance Committee can serve a clearinghouse function, regularly apprising all operating programs of issues and developments. It can also act as a vehicle for establishing overall operating priorities, for resolving conflicting goals, and for focusing on concrete, achievable results. For example, the bar might:

- Establish a *COORDINATING COUNCIL* representing all public and private programs in the victim witness assistance field;
- Develop, publish and distribute a periodic *BAR REPORT ON VICTIM WITNESS ASSISTANCE* separately or as part of the bar's existing publications. The bar report would contain brief synopses of ongoing public and private programs, provide a forum for updating program locations, phone numbers, personnel rosters, etc., and would highlight significant systems improvements;
- Develop and distribute to each criminal justice agency and to appropriate social services and other public and private agencies an *ANNUAL BAR REPORT ON VICTIM WITNESS ASSISTANCE*, recording progress and outlining future action priorities; and
- Convene a regular series of *VICTIM WITNESS ASSISTANCE POLICY CONFERENCES* involving all program directors, bar representatives and officials of local criminal justice agencies.

The Bar As Monitor/Evaluator

As officers of the court, the members of bar associations have a special obligation to be familiar with the administration of justice within their communities. A bar association Victim Witness Assistance Committee can serve its members and

the public by undertaking a monitoring and evaluation role through which it would:

- Develop and implement a specific *MONITORING AND EVALUATION PLAN* for all victim witness assistance programs within the jurisdiction;
- Receive and investigate *ALLEGATIONS OF VICTIM WITNESS NEGLECT AND ABUSE* by criminal justice agencies;
- Periodically analyze the *QUALITY AND ADEQUACY* of public and private victim witness assistance programs;
- Obtain and analyze on a regular basis the *SURVEY DATA* from crime victims and witnesses as to the system's services, promptness, etc.; and
- Prepare an *ANNUAL REPORT* to the bar, criminal justice agencies and the public evaluating the system's progress in attending to the needs of victims and witnesses.

This chapter has suggested a variety of reasons for bar associations to become involved in the development and operation of victim witness assistance programs. It has also suggested a variety of ways in which the bar can exercise a leadership role. By rendering tangible assistance to crime victims and witnesses, these suggested activities or variants thereof will serve the interests of justice and the public good and, at the same time, redound to the bar's credit.

CHAPTER 4

Establishment of Bar Association Committees

Bar-affiliated activities in victim witness assistance are best designed, coordinated, and carried out under the guidance of a specially-designated Victim Witness Assistance Committee. To ensure that the designation of such a Committee is more than a mere exercise in public relations, considerable preliminary work should be undertaken to rally the genuine support of the bar membership. This is the role of a Victim Witness Planning Committee.

Victim Witness Assistance Planning Committee

While careful planning efforts are desirable, it is not necessary to create extensive planning committees. The work of several bar members will suffice in many jurisdictions. The primary function of the Planning Committee is to produce a specific, concrete course of action to win the vital assent of the bar's membership. To obtain that endorsement, a preliminary plan should involve the:

Analysis of current victim witness assistance practices, procedures and programs of:

- Police agencies;
- Prosecution agencies;
- Courts (felony, misdemeanor, juvenile and family);
- Social service agencies; and
- Other public, private and citizen-based groups.

Analysis of victim witness "flow" data, including:

- Data on police "processing" of victims and witnesses;
- Data on prosecution "processing" of victims and witnesses; and
- Court data on number, frequency, etc. of subpoenas, court appearances and the like.

Identification of apparent system deficiencies and problems, including, for example,

- Accusatory police practices in dealing with victims and witnesses;
- Insensitive, intimidating police and prosecution practices in dealing with defense witnesses;
- Insensitive police and prosecution practices in dealing with physically and emotionally traumatized victims, e.g., abused children, abused spouses, rape victims;
- Extent to which police, prosecution and court agencies provide decent and secure physical facilities for victims and witnesses, such as appropriate interview and waiting rooms;
- Extent to which police, prosecution and court agencies advise victims and witnesses of case progress on a regular basis;

- Extent to which police, prosecution and court agencies keep victim witness appointments in a businesslike fashion, vs. arrogant scheduling practices which require victims and witnesses to wait inordinate periods of time; and
- Extent to which police, prosecution and court agencies explain in simple, clear terms exactly what is going on in various stages of the criminal proceedings.

Identification of short-range program priorities involving immediate, low-cost, quick-dividend programs to improve victim witness services, such as:

- Bar-operated victim counseling and referral services;
- Cooperative organized bar and court telephone alert witness call systems;
- Cooperative organized bar, police and prosecution social service referral systems for crime victims; and
- Compilation and distribution of a jurisdiction-wide victim witness assistance directory.

Identification of long-range victim witness assistance improvement priorities on a phased, yearly basis. For instance, Year One might involve:

- Bar-sponsored Criminal Justice Training Institutes for victim witness assistance program staff and volunteers;
- Publication and distribution of public information materials; and
- Cooperative development with law enforcement officials of police "Critical Victim Units;"

and Year Two might involve:

- Cooperative development with law enforcement officials of police "Intimidation Response Teams;"
- Cooperative development with police, prosecution and court officials of "Final Disposition Information Programs," i.e., formal systems to "debrief" victims and witnesses and to explain to them in layman's terms exactly what happened and why; and
- Cooperative development of a Victim Witness Assistance Coordinating Council composed of representatives from the bar, police, prosecution, courts, social service and citizen-based private agencies.

The bar's preliminary plan will, of course, be subject to change. The plan outlined above is merely a hypothetical one, and the Planning Committee will probably wish to promulgate a more detailed plan setting some specific, measurable, target goals. For example, with respect to the bar-sponsored Criminal Justice Training Institute, it might indicate specific numbers and types of persons to be trained over a five-year period. Similarly, quantified goals could be set for cooperatively-developed programs such as the police-operated "Critical Victim Units", e.g., provision of intensive investigation, counseling and referral services for victims and their families in fifty rape-sexual assault cases.

Selection of Victim Witness Assistance Committee Members

The preparation of a thoughtful, practical and persuasive long-range plan for victim witness assistance improvements can help bar leaders gain the support and participation of the bar's general membership. To win the backing of criminal justice agencies and the public at large, bar leaders must recognize several factors which should bear on the selection of effective Victim Witness Assistance Committee chairpersons and members. These include:

- High visibility of victim witness assistance;
- Necessity for in-depth and practical knowledge of and experience with the administration of criminal justice;
- Concomitant need to involve representatives of a wide variety of legal disciplines, such as members of the defense bar and the civil bar as well as judges, prosecutors, and lawyers engaged in other criminal justice positions;
- Activist nature of the Committee's work requiring attention to practical, common sense improvements in the criminal justice system; and,
- Need for imagination, energy and the ability to get disparate groups to work together.

Bar leaders, under their organizations' by-laws and articles, will have many local factors to consider in selecting chairpersons and members. In addition, there are several qualities which all bars must take into account.

Chairpersons must be informed lawyers willing to take a fresh look at the system, willing to give their time and attention to seemingly mundane endeavors and willing to serve as spokespersons on behalf of victims and witnesses. At the same time, they must be able to avoid the temptations of demagoguery and of using the program to convey a subliminal message calling for harsh treatment of offenders.

Because their charter will require contact and cooperation with a wide range of organizations, chairpersons and their Committee colleagues must be prepared to deal in a non-defensive manner with heavy criticism of the bar and of lawyers.

Finally, all members of these Committees should be sympathetic to the view that a significant group of "clients" or "consumers" of the criminal justice system remain ill-served: victims and witnesses.

Committee Victim Witness Needs Assessment

Utilizing the preliminary analyses compiled by the Planning Committee, the formally-constituted bar Victim Witness Assistance Committee should conduct a full-scale "needs assessment." This effort will involve a comprehensive examination of all public and private programs, practices and procedures serving or otherwise affecting the jurisdiction's crime victims and witnesses. The completed needs assessment will become the Committee's principal resource document for formulating its victim witness assistance programs and activities.

The goals of the needs assessment are four-fold:

- Identification and analysis of all victim witness services, programs and practices;

- Identification of personnel and financial resources currently supporting victim witness assistance activities;
- Identification of gaps in services, lack of services, inefficient services, etc. in individual institutions and on a systemwide basis; and
- Forecasting personnel and financial resources necessary to carry out remedial programs.

In conducting needs assessments, bar associations should pursue the following minimal areas of inquiry:

General Crime Data (sources include the F.B.I.'s Uniform Crime Reports and local law enforcement statistical reports), such as:

- Offenses reported (by crime);
- Demographic data on victims where available (sex, age, geographic location, etc.);
- Witness data, where available; and,
- Crime trends (for statistical significance this kind of review should cover a period of at least five years).

Law Enforcement Practices and Procedures

- How many victims and witnesses are interviewed/questioned by police?
- What special training is given to interviewers and is special training available for interviewing special classes of victims, e.g., rape victims, abused spouses, children?
- Do special victim and/or witness assistance units exist and if so what general and specific duties do they perform?
- What official, written guidelines exist to set forth departmental policy regarding treatment of victims and witnesses?
- What services, including information dissemination, are routinely provided to victims and witnesses?
- What identifiable portion of the departmental budget is devoted to victim witness assistance?
- How many sworn departmental personnel work full or part time in victim witness assistance duties? How many civilian personnel? How many volunteers?

Prosecution Practices and Procedures

- How many victims and witnesses are interviewed/questioned by the prosecution?
- What special training is given to prosecutors/investigators and, again, is special training available to help personnel deal effectively with rape victims, abused children, abused spouses, etc.?
- Does the Prosecutor's Office have written policy guidelines covering the treatment of, and services for, victims and witnesses?
- Does the Prosecutor's Office have written policy guidelines covering the treatment of, and service for, victims and witnesses?
- What services, including information dissemination, are routinely provided to victims and witnesses?
- What victim/witness subpoena practices does the office utilize, e.g. mailed subpoenas, telephone alert systems?
- What identifiable portion of the prosecutor's budget is devoted to victim witness assistance?

- How many legal, paralegal, administrative support and volunteer personnel work full or part time in victim witness assistance duties?

Court Practices and Procedures

- What physical accommodations are available for the security and comfort of victims and witnesses summoned for testimony in criminal proceedings?
- What written policy guidelines, if any, regulate the court's treatment of victims and witnesses?
- Are major adjudicatory decisions (e.g., adjournments, dismissals, final verdicts) routinely communicated to and explained to victims and witnesses? If so, by whom?
- What kind of information service does the court provide for victims and witnesses?

Social Service Agency Practices, Procedures and Programs

- What social service agencies operate programs which render—or could render—assistance to crime victims?
- How did the victims get there? Who referred them?
- What contacts/liaison do the agencies maintain with criminal justice agencies?
- What potential services—quantitative and qualitative—could these agencies provide to crime victims?

Private, Citizen-Based Organizations and Groups

- What civic organizations are active within the community?
- Which of them would be interested in developing and operating victim witness assistance programs?
- What kinds of resources do they have—personnel and financial?
- What natural alliances could be formed between these organizations and criminal justice agencies?

Answers to these and other questions will provide the bar with the kind of data it needs to frame an action-oriented agenda.

Committee Agenda

The Committee's long-range preliminary plan coupled with the comprehensive needs assessment will enable the Committee to draft an action agenda combining:

- Bar association programs;
- Cooperative bar/criminal justice agency programs; and
- Cooperative bar/private organization programs.

Moreover, the bar's careful analysis of the existing system and its needs will enable the Committee to plan for and execute:

- Public information and education programs;
- Action programs; and, most importantly,
- A *system* for coordinating inter-agency and interorganizational programs.

A serious bar association effort to assume a leadership role in this area of criminal justice reform will embrace the elements contained in this chapter. That effort will be marked by a thoughtful, practical preliminary plan, by a careful

selection of lawyers to serve as Victim Witness Assistance Committee members, and by the design and execution of a searching, comprehensive needs assessment.

CHAPTER 5

Professional Frontiers and Issues

Spawned at least in part by the growing interest in rendering assistance to the victims of crime, individual practitioners have made great strides in recent years in the development of imaginative case law in the victims' rights field.

Tort actions against criminal offenders are, of course, not new. However, as most criminal offenders are judgment proof, judgments in tort for wrongful death, for assault, for battery or for other wrongs usually represent hollow victories. To some extent, the emergence of third party victim lawsuits may offer the promise of compensatory damages to at least certain classes of victims.

Third Party Victim Lawsuits*

What kinds of cases are addressed in third party victim lawsuits? Some examples are:

- A celebrated singer is attacked and raped in her motel room. She files suit against the motel chain, charging inadequate security provisions and inadequate room locks. The jury awards damages of \$2.5 million and the plaintiff later settles for \$1.5 million (*Des Moines Register*, July 7, 1976 at 1, col. 5).
- A Washington State penitentiary warden creates, without legislative authority, a "take-a-lifer-to-dinner" program. A life convict with 40 felony convictions and 17 escape attempts participates in the program, escapes and murders plaintiff's husband while committing an armed robbery. Plaintiff sues the State of Washington and the warden and recovers \$186,000 (*Taylor v. State*, No. 211-130 Superior Court, Pierce County, Washington, Sept. 10, 1973).
- A California rape victim, alleging lax security and misrepresentation of security provisions for her apartment premises, sues her landlord. The California Court of Appeals rules that, in proper cases, landlords could be held liable for failure "to make safe" and failure to warn of dangerous conditions (*O'Hara v. Western Seven Trees*, ___ Cal. App. ___, Dec. 13, 1977).

Instead of seeking to recover from indigent defendants, in third party victim lawsuits victims or their survivors sue two general types of defendant: (1) custodial officials (e.g., corrections officials) or the state, or (2) private third parties (e.g., innkeepers or owners of residential dwellings). In general, such lawsuits are based upon allegation of the third party's negligent failure to perform a duty.

*Most of the cases and other materials cited in this section are drawn heavily from "Victims' Rights: A New Tort," *Trial Magazine*, June 1978 by Frank Carrington.

While courts have indicated a growing willingness to weigh issues of duty breach, foreseeability and negligence as they relate to victimization, the future of victims rights litigation remains uncertain. For example, the specific area dealing with claims against custodial officials based on allegations of negligent release was ruled upon by a unanimous U.S. Supreme Court in *Martinez v. California*, ___U.S. ___, 26 CrL 3061, in January, 1980. In that case the California state parole board was sued for gross negligence in releasing a convict who subsequently murdered the plaintiffs' daughter. The Supreme Court held that the California statute granting absolute immunity to public employees who make parole release determinations did not violate the due process requirements of the Fourteenth Amendment of the U.S. Constitution, and that the murder in question was too remote a consequence of the parole officers' action to hold them responsible under the Civil Rights Act (42 USC 1983). At first blush the *Martinez* decision creates impediments for third party victims' rights litigants in custodial cases; however, the narrow grounds on which it was decided leave some question as to its widespread implications for the future of such litigation. It is therefore a case which bears careful study by attorneys representing victim rights litigants.

Members of the bar, and especially the trial bar, should be aware of the potential benefits of third party victim rights litigation. Issues resolved in favor of individual plaintiffs can have larger implications which may help prevent crime. Thus, a litigant who recovers substantial damages from a landlord because the landlord failed to provide adequate crime security may persuade that landlord—and others—to install better security devices. Moreover, the results of such cases will not be lost on major insurance carriers who, in turn, may be persuaded to reexamine insurability criteria.

Victim rights litigation also affords the bar a chance to serve victims and the furtherance of justice in the role of *amicus curiae*. To the extent that victim rights litigation may, in the long run, serve as a deterrent to crime, the *amicus* role constitutes an attractive bar opportunity.

* * *

While third party victim rights litigation is an interesting legal frontier which will, no doubt, be developed through the ingenuity and inventiveness of the trial bar, there are some impediments to the development of successful victim witness assistance programs caused by the ingenuity of lawyers.

Professional Impediments to Victim Witness Assistance

Elsewhere the reluctance of criminal justice institutions and other bureaucracies to effect changes has been mentioned. In part, that reluctance arises from mere custom and routine. Some customs and traditions of the bar may also impede progress in the development of victim witness assistance programs.

Some argue that it is the responsibility of neither a lawyer nor a criminal justice agency to assist the victims and witnesses of crime. This argument holds that the system is responsible solely for investigating and adjudicating and that ancillary efforts to assist victims and witnesses will breach the system's dike of

impartiality. This view is a mind-set which ignores the facts and which, increasingly, ignores public opinion. No conceivable interest of justice is served by:

- Failing to advise a crime victim about available compensatory programs and procedures;
- Failing to provide crime victims and witnesses with appropriate information regarding procedures and case progress;
- Failing to consider witnesses' convenience in scheduling trial and appearance dates;
- Failing to consider the inconvenience to witnesses in the granting and scheduling of adjournments, continuances and other forms of postponement;
- Failing to advise victims about existing programs which may be able to provide forms of assistance; or
- Failing to explain in understandable terms why cases are postponed, dropped and dismissed.

These failures are "proprietary" in character and they illustrate the all-too-common view that the system belongs to those who run it. Such views are even now under attack and a public already disenchanted with governmental institutions will, no doubt, become increasingly intolerant of unresponsive criminal justice agencies. Lawyers and bar associations should therefore reexamine their own fundamental attitudes about the criminal justice system and the purposes it serves in our complex society. It is likely that an objective examination will reveal that any inconsistencies between expanded victim witness services and fair, impartial treatment for those accused of crime are more apparent than real.

One area in which victims and witnesses often suffer unfairly at the hands of the system is that dealing with continuances. Not infrequently such delays are granted because a defendant has not paid his or her lawyer. While defense counsel, like prosecutors, are certainly entitled to be paid, victims and witnesses should not be held hostage by the delinquency of a defense attorney's client. Neither should they have to make multiple trips to court because of such delinquency. This problem, especially at the lower court level, merits the attention of both bench and bar. It is not an easy one and conflicting equities are involved. Still, the "victim" of this dilemma should not be the crime victim or witness. The bar has a special responsibility to develop procedures to ameliorate this problem.

Another impediment worth mentioning here concerns the scheduling of court cases. Notwithstanding substantial advances in management techniques, including the use of computers, some criminal justice systems continue to do a less than adequate job in scheduling matters in a way which *in the first instance* takes into consideration the needs and requirements of victims and witnesses. Public institutions supported with taxpayer funds should not make a practice of keeping citizens waiting. Bench and bar should combine their efforts and talents to develop more workable, efficient and considerate scheduling systems.

Reform versus Interference

Bar associations and their members engaging in victim witness assistance activities can perform a valuable criminal justice improvement service. The quality of that service will be enhanced if lawyers—defense, prosecution and civil—remain mindful of the supplemental, auxiliary nature of victim witness

assistance activities. No attorney, regardless of the particular advocacy or counseling role being performed, will wish for victim witness service to interfere with investigatory or adjudicatory issues. In designing bar-sponsored programs and in assisting other organizations in program design, bar committees will therefore review program suggestions from the following perspectives:

- Does the suggested program contain elements which could impinge upon or otherwise interfere with investigatory procedures?
- Does the suggested program contain elements which could impinge upon or otherwise interfere with or prejudice the adjudicatory process?
- Does the suggested program demonstrate—to the extent possible—an understanding of and sensitivity for the needs of both prosecution and defense?

By addressing these questions in the formative stages of victim witness assistance programs, bar committees can demonstrate an impartial commitment to system reform and can take an important step in seeking the cooperation of defense, prosecution and civil practitioners. For example, in reviewing a proposed program to improve the system's response to reports of witness intimidation the bar's Victim Witness Assistance Committee would consider, *inter alia*, the following factors:

- Does the program's proponent provide a problem statement justifying the creation of a Witness Intimidation Response Program?
- Does the program set forth practical means for dealing with witness intimidation—i.e., special personnel and special procedures for expediting intimidation reports?
- Does the program take into consideration legitimate defense concerns by requiring that reports of witness intimidation be formally conveyed to defense counsel?

This kind of review will involve all of the bar's disciplines and will go far to insure that programs designed to improve the treatment of victims and witnesses will achieve that goal without interfering in the orderly administration of justice. This is an important consideration and it will enable bar associations to seek the active participation of attorneys who do not normally practice within the criminal courts. No program activity suggested within this manual should interfere with the legitimate functioning of any criminal justice agency; instead, the general and specific program suggestions which appear within the following chapters should, if implemented, provide supplementary services for victims and witnesses, for prosecutors and defenders and for all agencies charged with the prevention, detection, investigation and adjudication of crime.

In planning and operating victim witness assistance programs, extreme care must be taken to insure that needed reforms are not made at the expense of the legitimate rights of those accused of crime nor at the expense of the orderly administration of justice. The organized bar is well equipped to exercise the kind of informed care needed to bring about balanced, effective and permanent changes in the way we treat crime victims and witnesses.

CHAPTER 6

Police

Police Role in Victim Witness Assistance

Police play a particularly crucial role with respect to victims and witnesses. In virtually all cases, they are the first representatives of the criminal justice system to talk with them, and thus have the opportunity (and responsibility) of setting the tone for their subsequent treatment by the system. Moreover, the initial perception of victims and witnesses about police behavior can go far in determining their subsequent attitudes toward the system—attitudes which in turn will define the degree of their cooperation.

In attempting to analyze existing police practices, procedures and services, bar associations should be mindful that effective police performance in the victim witness area can:

- Increase victim and witness cooperation;
- Improve the quality of victim witness cooperation;
- Provide better safeguards against victim and witness intimidation;
- Increase public confidence in law enforcement; and,
- Contribute, at least indirectly, to the prevention of crime.

Analysis of Existing Police Services

Armed with data from the Planning Committee's preliminary plan and from the Committee's needs assessment, the bar's Victim Witness Assistance Committee is in the position to analyze existing police services. That analysis can be performed in several ways. For example, the Committee might wish to structure it on a "time-continuum" basis, i.e.:

- Police receive report of a crime and respond;
- Police question victim(s) and witnesses;
- Police interview victim(s) and witnesses;
- Police summon victim(s) and witnesses to a line-up or other identification proceeding, etc.

In the alternative, the Committee might wish to structure its analysis along functional lines—with or without regard for the chronology of police contact with victims and witnesses. Such an analysis would consider the following kinds of functions:

Investigatory (Immediate)

- Recording facts, preserving evidence;
- Taking statements from victim and/or witnesses;
- Identifying perpetrator; and,
- Making offense report decisions.

Investigatory (Continuing)

- Analyzing preliminary findings;
- Recalling, questioning victim/witnesses;
- Obtaining identification of apprehended suspect(s); and,
- Making booking, charge referral decisions.

Informational—guidance to victims about:

- How, where and when they can claim recovered property;
- How, where and when they can file claims under Crime Victim Compensation acts (where applicable);
- How and to whom they should report intimidation threats or acts;
- What public or private agencies they should contact for needed help arising out of injuries or losses caused by the criminal act; and,
- Their rights and obligations during the pendency of the criminal case.

Protective

- Procedures for notification of intimidation threats;
- Procedures for investigating such threats; and,
- Procedures for providing protection to victims and witnesses.

Educational

- Academy or in-service training institutes for police personnel to sensitize police to victim witness assistance issues, etc.;
- Departmental policy guidelines in the victim witness assistance area; and,
- Police-sponsored public education materials, programs and audio/visual materials on victim witness assistance.

Other Functional Areas

- Victim "hot lines;"
- Specialized investigation and assistance units for rape victims, abused children, abused spouses and senior citizens;
- Etc.

This type of existing service analysis should yield a lengthy catalog of suggested programs for the consideration of police officials and administrators.

Catalog of Feasible, Deliverable Police Services

In drafting a skeletal list of victim witness assistance programs and services for the consideration of police agencies, the Committee should place great emphasis on program and service *practicality*. Threshold questions would therefore include:

- Given the department's financial and personnel resource levels, is the program or service feasible?
- Is the program or service suggested economical?
- How many victims and witnesses will the suggested program or service reach?
- Based on these considerations, how would the suggested program or service rank against its "budget competitors"?

The actual catalog of suggested programs and services for the consideration of police agencies would include such activities as:

- **Police In-Service Training Seminars on Victim Witness Problems**
 - Purpose: Provide information and sensitivity training.
 - Cost: Minimal—out-of-service hours for sworn personnel; curriculum development costs, materials preparation and reproduction, etc.
 - Topics: Victim witness apprehension, fears of intimidation, feelings of humiliation, ignorance of system, reactions to police questioning, anger over bureaucracy, etc.
 - Audience: All sworn and civilian police personnel.
- **Police In-Service Training Seminars on "Critical" Victims**
 - Purpose: Upgrade effectiveness of police treatment of severely traumatized victims, render emotional "first-aid", improve levels of victim cooperation.
 - Cost: Minimal—out-of-service hours for sworn personnel; curriculum development costs (including professional consultants such as physicians, psychiatrists, psychologists), materials preparation and reproduction, etc.
 - Topics: Rape victims, abused children, abused spouses, severely injured victims, etc.
 - Audience: Selected groups of sworn and civilian police personnel.
- **Creation of "Critical Victim Units"**
 - Purpose: Create and staff Critical Victim Units with highly trained, skilled police personnel to render intensive investigation, interview, counseling and referral services to critical victims. Such units would be a counterpart to Major Offender Bureaus.
 - Cost: Minimal to substantial—possible additional personnel and/or reorganizational costs.
 - Topics: Major rape and sex offense victims, abused children and spouses, victims suffering severe injuries, etc.
 - Audience: The special classes of victims enumerated above *and* the families of such victims.
- **Creation of "Victim Potential-Prevention Programs"**
 - Purpose: Provide citizens with practical advice on victimization avoidance, through designing and conducting a series of crime prevention programs.
 - Cost: Moderate to high with possibilities for private and foundation support. Programs could include school, civic organization and media presentations. Programs could also involve a series of brief manuals and brochures.
 - Topics: A variety of subjects including burglary, auto theft, robbery, purse-snatching prevention; rape and sex offense prevention, etc. Focus would be on minimizing risks, employing sensible precautions and reacting to victimization situations.
 - Audience: General public and specific target groups—i.e. senior citizens, children, women, handicapped citizens, etc.

- **Creation of Intimidation Response Teams**

Purpose: Reduce incidence levels of acts and threats of intimidation against victims and witnesses by advising defense counsel, investigating allegations, warning alleged perpetrators, filing official reports with cognizant prosecution agencies, and coordinating victim witness protection services.

Cost: Minimal to very substantial depending upon levels of crime. Could require additional sworn personnel including numbers adequate for providing security to threatened victims and witnesses.

Topics: Telephonic response to all complaints, hot-line counseling, personal response to cases of severe threats, investigations and interviews and the delivery of security services.

Audience: All "critical" victims (contact to be initiated by the Team) and all complainant victims and witnesses.

- **Creation of Central Victim Witness Assistance Phone Number (i.e. 913 or "SOS" or some other easily remembered number)**

Purpose: Establish a standardized phone number which all victims and witnesses could dial for information.

Cost: Minimal—service could be manned by trained civilian and/or volunteer personnel. Additional advertising and publicity costs would be involved and would offer opportunities for corporate, private or foundation funding.

Topics: Dispatching transfer service on an emergency basis to Intimidation Response Teams; information and referral services.

Audience: All crime victims and witnesses and general public.

- **Creation of Victim Transportation and Assistance Volunteer Units**

Purpose: Provide free transportation to crime victims and witnesses to and from police or court appearances. Could be coordinated with local court and prosecution agencies.

Cost: Minimal to moderate—agencies could seek cooperation of the private sector to donate or loan equipment (i.e. car rental agencies, auto manufacturers or dealers) and drivers could be volunteers.

Topics: Simply arranging free transportation.

Audience: Victims and witnesses and especially those who are infirm, afraid or otherwise lack ready access to public or private transportation.

- **Establishment of a Formal Victim Witness Notification System**

Purpose: Formally advise victims (and the families of certain classes of victims) and witnesses of final police disposition, and the reasons for the disposition; thank them for bringing the matter to the attention of the police and for their cooperation in whatever investigation or proceedings ensued. Such notification

can be provided through correspondence or through personal visits by sworn personnel such as members of a Police-Community Relations Unit.

Cost: Minimal—service could be performed as a Police Community Relations Outreach program or through the use of well designed form letters signed by an officer connected with the case.

Topics: Form letters would provide for the most common kinds of disposition and would contain adequate blank space for such special comments as may be required.

Audience: All victims and witnesses including defense witnesses.

The services listed above run the gamut from prevention information to final disposition notification. They are commonsense and generally modest ideas to help crime victims and witnesses and, thereby, to bolster public confidence in the law and in law enforcement agencies. It is expected that these eight services will suggest to interested bar associations a wide variety of additional program and service ideas.

Bar Cooperation in Police Program Planning

Police participation will be a key ingredient if the bar is to achieve success in its overall effort to improve the system's treatment of victims and witnesses. Thus, any bar "analysis" of existing or proposed police services must be undertaken as a cooperative venture between equal partners.

From the very first—before any public announcement of the bar's intention to undertake a program in victim witness assistance—bar leaders should seek to explain the project to law enforcement officials. In these discussions, it should be made clear that the bar's examination of existing programs, practices and policies is *an analysis, not an inquiry*. It should also be made clear that the bar's overall effort will encompass all elements of the criminal justice system, including the bar itself. Finally, the bar's ambassadors to the police should stress that failings in victim witness assistance are *systemwide* failings and that efforts must be made by all criminal justice institutions if real changes are to be made.

Through its Victim Witness Assistance Committee, the bar should offer for the consideration of the police a series of program and service ideas which the law enforcement agency could implement. It should further offer volunteer services of its own members to work with the police in tailoring program suggestions to fit local needs and resources. The scope of the bar's offer of a cooperative endeavor will be limited only by its imagination and the willingness of its members to work with the police in improving the quality of the system's services to victims and witnesses.

Aside from the victims and witnesses of crime themselves, no group is more qualified than the police to describe victim witness problems. No institution has more contact with victims. No institution has the street-level, practical perspective on their problems which police officers gain daily. In short, police agencies will be invaluable allies in bar efforts in victim witness assistance.

CHAPTER 7

Prosecution Agencies

Prosecutors routinely engage in adversary proceedings with their legal colleagues in the defense and civil bars. Nevertheless, as officers of the court, they share with these attorneys many mutual obligations and goals, and they need and should have the support and cooperation of bar associations in performing their own essential function in the justice system.

Within recent years, many prosecutors have made major strides in changing their victim witness procedures. These efforts, coordinated initially by the National District Attorneys Association, have focused primarily on ways to make the criminal justice experience less officious and less burdensome to crime victims and witnesses. The high standard set by these programs is laudable; nevertheless much remains to be done. Bar associations can play an important role in helping to define and address that unfinished agenda.

Prosecution Role in Victim Witness Assistance

Next to the police, prosecutors have more day-to-day contact with crime victims and witnesses than any other segment of the criminal justice system. Like the police, they can influence case outcome through their attitudes, demeanor and the way they treat victims and witnesses.

In attempting to analyze existing prosecution practices, procedures and services, bar associations should remain mindful of the fact that effective prosecution performance in the victim witness assistance area can:

- Increase victim and witness cooperation;
- Improve the quality of victim witness cooperation;
- Provide better safeguards against victim and witness intimidation;
- Increase victim and witness understanding of the criminal justice process;
- Increase public confidence in the criminal justice system; and
- Contribute, at least indirectly, to the prevention of crime.

Analysis of Existing Prosecution Services

Armed with data from the Planning Committee's preliminary plan and from the Committee's needs assessment, the bar's Victim Witness Assistance Committee is in the position to proceed with a specific analysis of existing prosecution services. Like the police services analysis described in the previous chapter, this analysis can be performed in several ways. For instance, the Committee might wish to structure it on a "time-continuum" basis, i.e.

- Prosecutor receives police report of arrest and booking, or prosecutor receives direct complaint;

- Prosecutor questions victim(s) and witnesses on the basis of the police report;
- Prosecutor conducts in-depth investigation requiring periodic contact and interviewing of victim(s) and witnesses;
- Prosecutor makes a formal "charge" decision, followed by filing of an information or a request to the Grand Jury for an indictment;
- Prosecutor prepares case: docketing, witness preparation, etc.;
- Prosecutor obtains and serves subpoenas; and
- Case goes to trial and is disposed of by verdict or dismissal (or by plea of guilty at one of the above stages).

In the alternative, the Committee might wish to structure its analysis along functional lines without regard to activity chronology. Such an analysis might consider the following functions and how, in the exercise of these functions, prosecution agencies interact with victims and witnesses:

Investigatory (Immediate)

- Corroborating facts, preserving evidence;
- Recording statements from victim(s) and witnesses; and,
- Making "charge" decisions regarding filing of a criminal information and/or seeking a Grand Jury indictment.

Investigatory (Post-information or indictment)

- Preserving statements and evidence;
- Corroborating facts, statements etc.; and,
- Witness interviewing and witness trial preparation.

Informal—guidance to victims and witnesses about:

- How, when and where they can claim recovered property;
- How, when and where they can file claims under crime victim compensation statutes, in states where these exist.
- How and to whom they should report intimidation acts or threats;
- What public or private agencies they should contact for help regarding needs arising out of injuries or losses caused by the criminal act;
- Their rights and obligations during the pendency of the criminal case;
- The procedures and steps which will be followed in the case; and,
- The "decision points" which will be reached during the pendency of the case: what they mean and how the victim and witnesses will be notified of those decisions.

Protective

- Procedures for notification of intimidation threats;
- Procedures for investigating such threats; and,
- Facilities and procedures for providing protection to victims and witnesses.

Educational

- Continuing in-service legal education to sensitize prosecution personnel (legal and non-legal) to victim witness assistance issues;
- Prosecutor's written policy guidelines in the victim witness assistance area; and,
- Prosecution-sponsored public education materials, programs and audio/visual materials on victim witness assistance.

Other Functional Areas

- Victim witness "hot lines";
- Telephone alert systems for victims and witnesses;
- Specialized counseling services for victims of serious offenses;
- Establishment of a Victim Information Office to coordinate and respond to victim inquiries and to "explain" case decisions in understandable, lay terms; and,
- Etc.

This type of existing service analysis should yield a lengthy catalog of suggested programs for the consideration of the chief Prosecutor and his or her administrative aides.

Catalog of Feasible, Deliverable Prosecution Services

In drafting a skeletal list of victim witness assistance programs and services for the consideration of prosecution agencies, the Committee should place great emphasis on program and service *practicality*. Threshold questions would therefore include:

- Given the Prosecutor's financial and personnel resource levels, is the suggested program or service feasible?
- Is the suggested program or service economical?
- How many victims and witnesses will the suggested program or service reach?
- Based on these considerations, how would the suggested program or service rank against its "budget competitors"?

The actual catalog of suggested programs and services for the consideration of prosecutors would include such activities as:

● Prosecution In-Service Training Seminars on Victim Witness Assistance Problems

Purpose: Provide information and sensitivity training for assistant prosecutors, investigators, paralegal and administrative support staff.

Cost: Minimal—out-of-service hours for professional and support staff; curriculum development costs, materials preparation and reproduction, etc.

Topics: Victim witness apprehension, lack of familiarity with legal terminology, lack of understanding about the system, fears of intimidation, feelings of humiliation, anger and frustration about repeated appearances, anger over bureaucracy and its lack of responsiveness, etc.

Audience: All professional and lay personnel within the prosecutor's office.

● Prosecution In-Service Training Seminars on "Critical" Victims

Purpose: Upgrade effectiveness of prosecution treatment of severely traumatized victims, render emotional "first-aid", improve levels of victim cooperation.

- Cost:** Minimal—out-of-service hours for professional and some support personnel, curriculum development costs (including professional consultants such as physicians, psychiatrists, psychologists), materials preparation and reproduction, etc.
- Topics:** Rape victims, abused children, abused spouses, severely injured victims, the elderly, etc.
- Audience:** Selected groups of assistant prosecutors and support personnel.

● **Creation of "Critical Victim Units"**

- Purpose:** Create and staff critical victim units with highly trained, experienced assistant prosecutors, investigators and support personnel to provide intensive investigation, interview, counseling and referral services to critical victims. Such units would be a counterpart to Major Offender Bureaus.
- Cost:** Minimal to substantial—possible additional personnel and/or reorganization costs.
- Topics:** Major rape and sex offense victims, abused children and spouses, victims suffering severe physical trauma as the result of major crimes such as robbery, aggravated assault, etc.

Bar Committees engaged in victim witness assistance activities should note that the first three suggested programs listed above (In-Service Training Seminars on Victim Witness Problems; In-Service Training Seminars on "Critical" Victims, and; Creation of "Critical Victim" Units are all activities which would lend themselves to joint police-prosecution operation. Other suggested prosecution activities would include:

● **Mail Subpoena Systems**

- Purpose:** Eliminate feelings of intimidation and/or embarrassment which may be experienced by victims and witnesses who receive subpoenas personally served by law enforcement officers. (Prosecutors may wish to utilize personal service in special cases.)
- Cost:** Negative cost involved. Conversion to a mail subpoena system would result in a substantial dollar saving for most criminal justice systems. It will also free sworn law enforcement personnel from an essentially administrative task and increase law enforcement personnel available for street duty.
- Topics:** Notification to victim(s) and witnesses will provide an opportunity to enclose a brief, lay language explanation of procedures, advise victims of possible compensation opportunities, etc.
- Audience:** Most crime victims and witnesses. (Prosecutors may wish to utilize personal service in special cases.)

● **Telephone Witness Alert Systems**

- Purpose:** Reduce unnecessary appearances, delays and waiting periods for crime victims and witnesses. Witnesses agree to be avail-

able on a date certain at a specified phone number and agree to be at court within a specified time after being called at that number.

Cost: Minimal—installation and operation of special phone lines of switchboard. May involve additional personnel and would lend itself to utilization of volunteers, such as senior citizens.

Topics: Would address issues of delay. Many witnesses spend inordinate periods of time in the courthouse waiting for their case to be called, only to be informed in many instances that the case has been postponed or will not be heard.

Audience: All victims and witnesses.

- **Construction of Victim Witness Reception Centers**

Purpose: Provide safe, comfortable and pleasant waiting facilities for victims and witnesses. Separate facilities should be provided for defense and prosecution witnesses waiting to testify or waiting to be recalled.

Cost: Moderate to substantial (i.e. \$20,000 to \$200,000) for renovation, purchase of furniture and materials, etc. Possible addition of personnel, although administrative operation of a Reception Center would provide opportunity for use of volunteers.

Topics: Provide secure waiting facility. Provide comfortable surroundings and private rooms where witnesses could confer with attorneys. Provide amenities (coffee, magazines, pay phones etc.) which would decrease the burden of waiting.

Audience: All victims and witnesses.

- **Expedited Property Return Systems**

Purpose: Significantly reduce delays in returning recovered property to crime victims. In large, multi-police-agency jurisdictions, such systems could be computer assisted. The prompt, efficient, and courteous return of recovered property will earn dividends.

Cost: Moderate (but will reduce present costs of warehousing recovered property). May require additional equipment and systems design and development services.

Topics: To return property promptly after its recovery, cooperative police-prosecutor systems will have to be developed. Moreover, measures must be taken to preserve the evidentiary value of recovered property.

Audience: All victims of property crimes.

- **Victim Witness Form Letter Notification Systems**

Purpose: Keep victims and witnesses notified of developments in their cases through simple, low-cost form letters.

Cost: Relatively low (i.e. 60,000 notification letters would entail postage costs of \$9,000). Large quantities of adaptable form letters can be inexpensively reproduced. Use of such letters will reduce the professional and clerical hours needed to operate the system.

Topics: After their initial contact with the prosecutor's office, victims and witnesses frequently remain completely uninformed as to the progress in their case. Form letters can be used to notify them of such major case developments as: formal charging decision; subpoena; continuances; pleas of guilty; final adjudication or jury findings of guilty or not guilty; and, sentencing. Form letters might also contain other useful information, such as telephone numbers for victim witness assistance, information about crime victim compensation, etc.

Audience: All crime victims and witnesses.

● **Court Escort Service**

Purpose: Make available in the courthouse a prominently-located reception center to provide information to victims and witnesses and help them find their proper destination.

Cost: Minimal. Would require modest furniture. Could be staffed by volunteers (e.g., senior citizens, high school students) who would serve as information officers and escorts.

Topics: Many court buildings—especially crowded, urban ones—can be puzzling, intimidating labyrinths to persons not familiar with them; initial assistance can be extremely reassuring to victims and witnesses. Information officers would be trained to handle routine inquiries, and volunteer escorts would take arriving victims and witnesses to the central Victim Witness Reception Center or to appropriate court rooms.

Audience: All victims and witnesses.

● **Information or Protocol Officer**

Purpose: Provide victims and witnesses with an explanation of the various procedures involved in the adjudication of their cases and the reasons for specific findings and decisions. (This recommendation may be implemented as an adjunct to the witness telephone alert and form letter notification systems described above.)

Cost: Modest. Personnel costs would vary from jurisdiction to jurisdiction, but an effective paralegal could be employed in most jurisdictions for \$20,000 or less.

Topics: Failure to understand what happened in a given case leads to disenchantment of the system for many victims and witnesses. Since few prosecutors have or take the time to "explain," the Information or Protocol Officer (who could be a paralegal) would be available to inform victims and witnesses of what happened and why.

Audience: All victims and witnesses seeking an understanding of the process and the specific reasons for specific acts or decisions.

● **Social Service Referral System**

Purpose: Provide a system for determining the particular needs of specific crime victims, and for referring the victims to appropriate social service and assistance agencies.

Cost: Minimal. Would require the development of a catalog of social services and agencies for the use of prosecutors and support personnel.

Topics: Interviews with crime victims should reveal facts pointing to the victims' needs for assistance, e.g., medical, counseling, financial, job placement.

Audience: All victims.

The eleven programs and services outlined above are certainly not exhaustive of the types of efforts prosecutors might undertake to assist victims and witnesses of crime. For example, additional ones are:

- **Transportation services** to help victims and witnesses get to court;
- **Restitution programs;** and
- **Prosecutor liaison programs with employers** to reduce "docking" of employees who miss work because of court appearances.

Most of the suggestions above represent modest measures to help crime victims and witnesses. Many of them have already been placed in operation by progressive prosecutors.

Bar Cooperation in Prosecution Program Planning

Prosecution participation, as police participation, is essential to the bar's effort to encourage comprehensive improvements in the treatment of victims and witnesses. In developing programs with prosecutors, the bar has a distinct advantage over many other groups, since a number of prosecutors are also active members of the bar. Prosecution lawyers or their representatives would be valuable additions to Victim Witness Assistance Committees. For example, their presence on these Committees is likely to be a distinct negotiating advantage in the Committees' dealing with police agencies.

In addition, the bar's analysis of current prosecutorial practices and procedures will benefit from "insider" insights. (As in its analysis of police agencies, the bar will of course focus its attention in this analysis on improvements in prosecution agencies, rather than on findings: again, it must conduct an analysis, not an inquiry.)

Thus, for a number of reasons, bar association leaders ought to seek out the active participation of the local prosecutors. Indeed, that step alone will stress the Committee's desire to address reforms across-the-board.

CHAPTER 8

The Courts

While victims and witnesses receive their initial impressions of the criminal justice system from police and prosecutors, their final impression comes from the criminal courts.

In many respects, the courts are the victim's "last resort." Their treatment at the criminal bench is usually final. It is also almost always more visible to the public and press than that received from police and the prosecution. Most judges try to avoid arbitrary or insensitive behavior toward victims and witnesses and to conduct hearings and trials in an impartial manner. Nevertheless, it is not uncommon for judges to overlook their responsibilities to crime victims and witnesses.

What victim assistance roles can the courts play, and how can bar associations cooperate with the courts in developing and implementing court-sponsored victim witness assistance programs?

Court Role in Victim Witness Assistance

The proposition that "ours is a government of laws and not of men" is as misleading as it is lofty. Men and women dispense justice as elected and appointed judges. The ways in which they dispense justice are as rooted in custom and conformity as they are in legal precedent and procedural rule.

While courts have demonstrated an institutional timidity in their handling of victims and witnesses, it is equally true that no governmental institution has performed as adequately and steadfastly in protecting and expanding individual rights and liberties. The victim witness assistance arena offers judges another opportunity to develop policies and practices which will demonstrate fidelity to concepts of impartiality, fair play and equity.

In analyzing existing court practices, procedures and services, bar associations should remember that effective judicial performance in the victim witness assistance area can:

- Improve significantly public opinion regarding issues of judicial fairness and impartiality;
- Demonstrate visibly that courts recognize their responsibilities to victims and witnesses;
- Reduce significantly levels of victim witness intimidation; and
- Contribute, at least indirectly, to the prevention of crime.

Analysis of Existing Court Services

Armed with data from the Planning Committee's preliminary plan and from the Committee's needs assessment, the bar's Victim Witness Assistance Committee is in the position to proceed with a specific analysis of existing court

services and practices. Like the police and prosecution services analyses described in preceding chapters, this analysis can be performed in various ways.

On a chronological or "time-continuum" basis, such an analysis would consider court procedures and practices from the time of initial docketing through final adjudication.

Along functional lines, a court analysis would consider the following types of victim witness assistance services:

Informational—guidance for victims and witnesses about:

- General court procedures;
- General rules regarding courtroom decorum;
- General guidelines regarding the delivery of testimony;
- Practical information regarding parking facilities, waiting room facilities, procedures for "checking in", procedures for applying for witness fees, etc.; and,
- Specific explanations about case dispositions.

Protective

- Establishment and operation of secure waiting facilities for victims and witnesses;
- Establishment and operation of a court escort service for victims and witnesses;
- Procedures for expediting allegations of victim witness intimidation to achieve prompt hearing and resolution; and,
- Formulation of written policy guidelines covering victim witness intimidation matters.

Educational

- Continuing judicial education seminars to sensitize judges and court personnel to victim witness assistance issues;
- Production and distribution of court policy guidelines regarding court services for victims and witnesses and standards of judicial and court personnel conduct toward victims and witnesses; and,
- Development of court-sponsored public and professional education materials on victim witness assistance.

Other Functional Areas

- Establishment and operation of a telephonic victim witness information service (staffed at least in part by volunteers);
- Establishment and operation of a special Victim Witness "Friend In Court" service utilizing trained volunteers (an attractive way to utilize the skills, experience and talents of senior citizens); and,
- Establishment and operation (in cooperation with police and prosecutors) of a victim witness Intimidation Hot-Line.

This kind of searching analysis should lead to the development of a lengthy catalog of practical services and programs to enable judges and court administrators to improve the quality of their public service.

Catalog of Feasible, Deliverable Court Services

In drafting a skeletal list of victim witness assistance programs and services for consideration by the court, the Committee should emphasize those which are

practical, which will deliver specific services and which will not detract from the court's position of impartiality. The Committee should therefore examine such factors as:

- Whether the service or program is feasible in light of the court's financial and personnel resources;
- Whether the service or program can be operated with existing personnel or with the assistance of trained volunteers;
- Whether the service or program is within the ambit of the court's jurisdiction; and,
- The extent to which the service or program might appear to detract from the court's obligations as an impartial arbiter.

The actual catalog of suggested programs and services for the consideration of judges and court administrators might include:

- **Continuing Judicial Education Seminars on Victim Witness Problems**

Purpose: Provide information and sensitivity training.

Cost: Minimal—out-of-service hours for judges, court administrators and court support personnel; seminar developmental costs, materials preparation and reproduction, etc.

Topics: Victim witness apprehension surrounding court appearances and testimony; fears of intimidation; feelings of humiliation; reactions to arbitrary treatment by court personnel; anger over delays, etc.

Audience: All judges, court administrators and support personnel.

- **Creation of "Friend in Court" Programs**

Purpose: Provide victims and witnesses the opportunity to be accompanied to court appearances by a non-governmental volunteer adequately trained in all aspects of court procedure.

Cost: Minimal—would involve recruiting and training a volunteer force, producing training materials, etc. Some coordination and administration expenditures would be required.

Topics: Friend in Court volunteers would explain all court procedures, accompany victims to hearings, wait with them at court, provide transportation where necessary, etc.

Audience: All victims and witnesses who, upon screening, need or request physical and/or emotional assistance.

- **Preparation of Written Policy Guidelines Governing the Treatment of Victims and Witnesses**

Purpose: Set standards for judicial and support personnel conduct toward victims and witnesses, and establish norms against which behavior can be measured.

Cost: Very modest—guidelines could be promulgated by Judicial Committees.

Topics: General decorum; formulation of internal policies regarding increased attention to the problems and needs of crime victims

and witnesses; limits of authority of various types of court employee.

Audience: All judges, judicial administrators, and court personnel.

● **Development and Operation of Victim Witness Reception Centers**

Purpose: Provide a safe, comfortable and pleasant atmosphere for crime victims or witnesses (prosecution or defense) to await court appearances and to confer with attorneys.

Cost: Modest to substantial, depending on caseload volume, available physical facilities and other factors. In many cases, renovation or remodeling of existing facilities within the courthouse would be required. Costs would include construction and renovation, furnishings, additional personnel to staff the Reception Center (e.g., paralegal to supervise volunteers), etc. However, this kind of project is likely to attract local business or civic association support.

Topics: Project would involve identification of suitable space, renovation, and staffing.

Audience: All victims and witnesses.

● **Development and Operation of Formal Informational Programs to Explain Case Dispositions**

Purpose: Provide (possibly in cooperation with similar prosecution programs) a formal opportunity for victims and witnesses to meet with a trained court official who will discuss and explain the resolution of their particular case.

Cost: Modest—possible addition of a trained paralegal or professional public relations officer.

Topics: Explanation of court determinations in terms which victims and witnesses can understand.

Audience: All victims and witnesses seeking an explanation of what happened in their particular case.

● **Development of a Victim Questionnaire to Identify Needs**

Purpose: Enable a court official to determine quickly whether the victim in a given case has problems which can be addressed by the court.

Cost: Modest. Questionnaire can be developed by court personnel, administered by administrative aides.

Topics: Questionnaire could evaluate victim's perception of the system, determine unmet needs, etc.

Audience: All victims (could also be used for witnesses).

The six suggested services and program ideas listed above start with in-service judicial education and cover activities through final adjudication. Their implementation in most instances will require only modest expenditures but can be expected to deliver substantial returns. The list, no doubt, can be expanded to

encompass additional service ideas useful to judges and court administrators seeking to improve their operations.

As evidenced above, ingenuity and practical analysis by local bar associations can give courts workable and sound victim witness assistance program alternatives. But will these program ideas be implemented?

Bar Cooperation in Court Program Planning

Courts must be willing partners in any comprehensive effort to improve the institutional treatment of victims and witnesses. Winning court cooperation, however, may not be as easy as winning the cooperation of police and prosecutors. What arguments for court-operated victim witness assistance programs can bar committees marshal to secure the court's cooperation and make the bar's developmental role successful?

Some judges, perhaps many, tend to equate sensitivity toward victims with judicial bias. It is not considered judicial bias when a court dismisses charges after a hearing which elicits facts proving that a defendant had been denied warnings about applicable, crucial legal rights. It is not considered judicial bias when a judge, after receiving allegations, inquires into the quality of care and protection being received by a defendant in a correctional holding facility. Judges regularly look into such matters and render decisions on the merits. It should not be considered judicial bias if a judge were to ask whether a rape victim had been advised about available psychiatric or psychological counseling, about available compensatory awards, or whether the victim:

- Needs the court's help in arranging time off from work without loss of pay or vacation days;
- Needs protection because of fears of intimidation?
- Needs information or help in securing the return of recovered stolen property; or,
- Needs general help in understanding the criminal justice process.

Such inquiries and subsequent offers of assistance do not go to an issue of bias: they go to an issue of responsibility. Bar associations can use these and similar constructs to persuade courts that effective and meaningful assistance can be rendered to victims without impinging upon the court's impartiality. With the active cooperation of lawyers and bar associations, courts can use their considerable powers to operate internal victim witness assistance programs. They can also *officially* encourage and monitor the improvement of police and prosecution practices.

Within the past decade, courts have engaged in major efforts to define and secure rights of incarcerated prisoners and to improve their treatment. Victims and witnesses deserve as much. The bar should exert every effort to enlist the bench in its comprehensive program to improve victim witness assistance activities. As a "first-among equals" partner, the bench can bring to this endeavor the moral force of its good offices and the legal force of its authority.

CHAPTER 9

Bar Cooperation with Citizen-Based Organizations

Recently much has been made about "participatory democracy," a concept calling for informed citizen involvement in the governmental process. Such participation is not new in the criminal justice arena. A number of reputable citizen organizations with records of achievement have served the interests of justice for many years. Examples include the National Council on Crime and Delinquency, Volunteers in Probation, and local Citizen Crime Commissions. These and other less ambitious citizen efforts have made a difference. Now, new efforts developed and operated by citizen-based institutions can play a major role in the delivery of victim witness services with the help of the organized bar.

Citizen Role in Victim Witness Assistance

Public expenditures for police, prosecution and judicial agencies have increased appreciably within the past two decades. Those expenditures have included billions of federal dollars. Most money in criminal justice budgets is devoted to soaring personnel expenditures. Now, caught between inflationary pressures and "Proposition 13" fiscal reform movements, public budgets are decreasing and taxpayers are demanding more for less. New programs requiring additional personnel are the first targets in such economy drives. While fiscal retrenching poses problems for public administrators, it offers opportunities for citizen-based organizations interested in buttressing the diminished fiscal ability of government agencies to perform needed services.

Since the major costs in most victim witness assistance service programs are related to personnel, utilization of trained volunteers can reduce costs dramatically. Fortunately, volunteers are especially suited to victim witness assistance programs. Citizen-based organizations can supplement police, prosecution and court personnel, and can provide "one on one" services for victims and witnesses—services which would otherwise be precluded by the budgetary constraints of line justice agencies.

In attempting to analyze existing citizen-based organizations and programs, bar associations should remember that citizen-based programs can:

- Supplement criminal justice agency programs;
- Provide trained volunteer personnel to staff criminal justice agency services;
- Provide volunteer personnel willing to devote considerable time, attention and personal service to individual victims and witnesses;
- Provide supplemental services outside the scope of services normally rendered by criminal justice agencies; and,
- Provide increased levels of public support for criminal justice institutions.

Analysis of Existing Citizen-Based Services

The bar association's attempt to analyze citizen-based victim witness assistance services must begin with a catalog of citizen-based organizations and of other social service agencies having either governmental or private affiliation. For purposes of organization we have included in this chapter comments about victim witness assistance services emanating from social service agencies. However, bar associations will probably want to differentiate between such organizations and can do so by arranging their analyses as follows:

Public Social Service Agencies: Listings with brief service analyses of such programs as:

- Health;
- Mental health;
- Employment counseling;
- Day care; and,
- Welfare.

Private Social Service Agencies: Listings with brief service analyses of such programs as:

- Privately-funded community mental health agencies;
- Special programs for the handicapped;
- Special programs for senior citizens; and
- Religious or charitable organizational programs.

Citizen-Based Organizations: Listings with brief service analyses of such programs as:

- Ad hoc neighborhood and community councils;
- Organizations formed to aid minorities;
- National women's organizations with local affiliates or chapters (e.g. National Organization of Women);
- National professional organizations with local affiliates (e.g., U.S. Jaycees, U.S. Chamber of Commerce, National Alliance of Business, American Medical Association, National Council on Crime and Delinquency, labor unions); and
- Rape crisis centers.

In preparing this catalog, bar analysts will be developing a checklist for enumerating and describing a wide variety of existing victim witness assistance programs. The catalog will be useful in developing new program ideas and cooperative alliances between various public and private organizations.

A functional analysis of existing social service and citizen-based programs would focus attention on the following kinds of services:

Information:

- Local public service media announcements;
- Hot-lines to provide emergency advice and information;
- Public information brochures on victim compensation, court procedures, etc.;
- Public directories regarding rape victim assistance, counseling and shelter services for victims of spouse abuse, etc.;
- Distribution of informational leaflets, posters, etc.; and,
- Conducting public seminars, town meetings, etc.

Education: Public and private courses and/or institutes for such audiences as:

- Criminal justice agencies—short course to advise criminal justice workers about social service and citizen-based programs and program opportunities;
- Mental health agencies—short course to advise mental health professionals about existing programs and about the development of additional victim counseling services; and,
- Schools and civic associations—development of short course curricula for use in civic classes, etc.

Service Delivery:

- Escort services—volunteers to accompany victims to court, to appointments at social service agencies and to other criminal justice agency meetings as may be required;
- Transportation services—volunteer or agency programs to transport victims and witnesses to appointments at criminal justice and related victim assistance agencies;
- Individual and group counseling programs for crime victims;
- Physical rehabilitation programs; and,
- Employment counseling and placement services.

This kind of analysis will attempt to identify existing programs and to identify potential program areas which can be addressed by citizen-based organizations and social service agencies.

Catalog of Feasible, Deliverable Citizen and Social Agency Services

In drafting a skeletal list of victim witness assistance programs for social service agencies and for citizen-based organizations, the bar's Committee should emphasize those kinds of auxiliary services which line criminal justice agencies would be unable, or unlikely, to perform.

Threshold questions would therefore include such inquiries as:

- Is the suggested service one which the agency can actually perform effectively for a projected volume of clients? This is an important consideration—programs often promise far more than they can deliver;
- Is the program one which is being coordinated with criminal justice agencies? If not, can an effective coordination system be worked out?
- Does the agency or organization operating the program or desiring to operate the program have ties to the criminal justice system? If not, what steps can be taken to create those ties, to provide criminal justice orientation and etc.; and,
- Does the program or suggested program fill an unmet need?

The actual catalog of suggested programs and victim witness assistance services for the consideration of citizen based organizations and social service agencies would include:

● **Development of Victim Witness Assistance Coordinating Councils**

Purpose: Establish an informal Council which would serve an informational, planning and development, monitoring and evaluating

role for non-criminal justice victim witness assistance services. Council would also coordinate with other, criminal justice-related groups, such as the criminal justice state planning agencies.

Cost: Modest. Services to be supplied by volunteers. Some clerical, production and publication costs would be involved.

Topics: Council could produce periodic reports on all non-criminal justice programs and services, act as a referral agency for criminal justice programs, plan and develop new and expanded services, monitor and evaluate existing service programs, advertise for and train new volunteers, etc.

Audience: The general public, all operating social service and citizen-based programs and all criminal justice agencies.

● **Development and Operation of Critical Victim Counseling Program**

Purpose: Buttress criminal justice agency services for victims of major crimes.

Cost: Moderate to substantial. Would involve both paid and volunteer or *pro bono* services of psychiatrists, psychiatric social workers, psychologists and other trained counselors. Volunteer counselors would receive training in group techniques.

Topics: This type of program would be designed to provide long-range and continuing support for victims of critical crimes who had received "first-aid" type counseling assistance from criminal justice agencies but who need longer-term support.

Audience: Victims of rape and major sexual assaults, abused spouses and children, families of homicide victims, victims of major felonies who sustained severe physical and emotional injuries.

● **Development of Coordinated Victim Witness Transportation Program**

Purpose: Provide free door to door transportation to crime victims and witnesses who lack their own transportation or access to public transportation. Such personalized services are especially important to senior citizens, the infirm and the physically handicapped. In addition to convenience, such programs afford a sense of security.

Cost: Moderate to substantial (costs would depend upon the extent and sophistication of transportation programs—i.e. they could range from volunteer efforts where one volunteer would agree to pick up and deliver a specific number of victims each week to more formal, coordinated programs providing mass minibus transportation).

Topics: Transportation to police, prosecution and court agencies. Programs could also include transportation to ancillary victim witness assistance programs—i.e. counseling sessions, physical therapy sessions and the like.

Audience: All victims and witnesses needing transportation services with special emphasis on senior citizens, the handicapped, etc.

- **Development and coordination (in concert with one or more criminal justice agencies) of Friend in Court Program**

Purpose: Provide crime victims apprehensive about the criminal justice process with an informed escort who can provide substantive and emotional support.

Cost: Minimal—would require a coordinating and administrative directorate and the utilization of trained volunteers.

Topics: Escort services, support for victims, counseling information and explanation of proceedings, added security, etc.

Audience: All victims and witnesses needing assistance.

- **Development and Operation of Emergency Shelter Program**

Purpose: Provide an emergency haven for crime victims in need of secure living facilities on a short term basis.

Cost: Moderate to substantial—costs involved will include purchase and/or leasing of facilities; renovation costs; volunteer staff and security staff where required.

Topics: Emergency shelter for crime victims requiring such services—i.e. abused spouses and/or their children; temporary shelter services for victims and witnesses who have received intimidation threats, etc.

Audience: Special classes of crime victims and witnesses.

- **Development of Temporary Witness Accommodation/Protection Program**

Purpose: Provide short-term accommodation to witnesses who are apprehensive because of acts or threats of intimidation, and low-cost ancillary witness accommodation services to supplement law enforcement protection services for witnesses.

Cost: Modest—would utilize volunteer services in low-risk cases.

Topics: Provide short term accommodations in private homes for witnesses. Program would be coordinated with police and prosecutors. Only minimal security risk cases would be handled.

Audience: Intimidated victims and witnesses in those cases where low risk factors are involved for victims, witnesses and volunteer hosts.

- **Development of Volunteer Corps to Operate Witness Telephone Alert System**

Purpose: Provide trained volunteers to assist criminal justice agencies in the operation of witness telephone systems designed to reduce unnecessary and counterproductive court appearances and other unnecessary delays.

Cost: Modest.

Topics: Supplement mail subpoena systems; provide timely telephone notice of imminent court appearances; provide other information.

Audience: All victims and witnesses.

Most of the program suggestions listed above call for heavy expenditures of volunteer time and energy and most would require modest financial support. These seven ideas should, in turn, suggest a wide variety of additional programs which might be developed and operated within citizen-based organizations and social service agencies.

Bar Cooperation in Citizen-Based and Social Service Program Planning

While many organizations without formal ties to criminal justice agencies have undertaken victim witness assistance activities within recent years, the organized bar can still serve as a catalyst in developing interest among other organizations and in helping them translate interest into action.

The bar's role as catalyst must be followed by the delivery of program planning services. The bar can be especially helpful in explaining to citizen groups how the criminal justice system works. In addition, the bar can help citizen-based organizations plan programs which will address real needs.

Finally, as *pro bono* counselor, the bar can guide social service and citizen-based organizations through the tactical and legal shoal waters such organizations will, no doubt, encounter. In this capacity, the bar can forewarn organizations about a host of avoidable legal issues—issues which, if not addressed, can cause operational problems and can damage relationships between citizen-based organizations and criminal justice agencies. And, because of its overview of the system and its knowledge of the ways in which the system functions, the bar can serve as an unofficial program monitor with an ongoing responsibility to foster tactful proposals for program improvement.

CHAPTER 10

Benefits of Criminal Justice/Citizen Coalitions

Our criminal justice agencies have finite capacities. Police, for example, cannot be expected to "prevent" crime rooted in homes, schools and the failures of other institutions. Prosecutors trying to process exploding caseloads with fixed personnel resources cannot be expected, for example, to divert staff to victim counseling services. And judges, juggling heavy motion, trial and sentencing dockets cannot be expected to pay scrupulous attention to the individual needs of each crime victim and witness. But if police, prosecutors and judges don't, who will?

In the last analysis, criminal justice agencies, like other governmental institutions, operate only with the consent of the governed. And within this context "consent" means nothing short of support for, cooperation with, and participation in law enforcement and criminal justice activities. No police agency, prosecutor's office or court can perform adequately without the willing consent of the people. This is not a pessimistic view—indeed, it is a sanguine view of the opportunities, shared by the bar and the citizenry, for criminal justice system improvement.

Bar Associations As Ambassadors

If it is true that criminal justice agencies alone cannot provide the range and depth of services needed by crime victims and witnesses, it is equally true that social service agencies and citizen-based organizations cannot perform those services in an effective manner unless they do so with the support of criminal justice agencies.

Bar associations can serve an ambassadorial role in creating good working relationships between criminal justice agencies and social service or citizen-based groups, or consortia of such wishing to work together. The bar can exercise its good offices by initially convening Citizen-Criminal Justice Advisory Councils to explore avenues for cooperative action. As ambassador-catalyst and with the benefit of its own planning and program development results in hand, the bar can frame an agenda aimed at several modest goals:

- Achieving a consensus that cooperation among concerned public and private entities is a prerequisite to comprehensive improvement programs in victim witness assistance;
- Achieving preliminary program development agreements from and among the institutional attendees; and,
- Achieving an agreement for an informal Citizen-Criminal Justice Advisory Council to meet again on a specified date to report upon program development progress.

Bolstered with those modest accomplishments, a bar association Victim Witness Assistance Committee can begin to perform its role as counsel to social services and/or citizen-based organizations.

Bar Associations as Counsel

After successfully encouraging inter-agency and organizational agreements to undertake preliminary work on cooperative victim witness assistance plans, the bar can continue to serve as a broker between the criminal justice participants and the social service or citizen-based organizational participants. It can also offer to assist in the development of specific program plans. And finally, during a program's developmental stage, the bar can serve a vital teaching function for participating citizen-based and social service organizations.

The teaching function is an important one. In their zeal to improve the lot of crime victims and witnesses, many well-intentioned groups become dissatisfied, frustrated, and even enraged when they "discover" criminal justice agencies sometimes function in an inequitable manner. Unbridled, these emotions are likely to result in agitation which will actually work against victim witness assistance by diminishing chances for cooperation between criminal justice and non-criminal justice groups. Lawyers and bar associations can help channel such emotions, diverting them toward effective action. Moreover, the teaching function will enable lawyers to explain, in understandable terms, the roles and functions of defense counsel, the prosecution and the courts.

Citizens dismayed by the system's lack of attention to the victims of crime need to gain first-hand knowledge of the system. For example, they need to see a typical police station at 11:00 p.m. on a Friday night. They need to see a typical assistant prosecutor in a large urban office "prepare" for his or her Monday morning court appearances. They need to observe an arraignment judge in a metropolitan jurisdiction as count after count of homicide, rape, robbery, arson and assault pass before the bench. And they need to observe the activities of public defenders and members of the defense bar who, like their counterparts, face demanding responsibilities.

The problems are real and lawyers, judges, prosecutors and police know that the problems are real. Bar associations can help citizen-based groups understand the kinds of pressures criminal justice agencies and workers face daily. That kind of understanding will enable non-criminal justice groups to concentrate their energies on goals which are attainable.

In its teaching role for non-criminal justice groups, the bar can also emphasize that the way to bring about change in the system's treatment for victims and witnesses is to act—not to moralize. Line agencies within the system will not take kindly to "do good" sentiments expressed by those who have never arrested, prosecuted, tried nor sentenced an offender. They will, however, take note of acts and actors who in fact deliver assistance to victims and witnesses.

A host of legal, quasi-legal and practical problems can arise in victim witness assistance activities. As *pro bono* teacher-counselors, bar associations can help citizen-based organizations anticipate such problems. For example, victim witness transportation and shelter programs should expect insurance and liability issues to arise. Volunteers and other victim witness assistance workers who, through conversations with their clients, become privy to specific information

may find themselves called as witnesses in their clients' criminal cases. In anticipation of these and other such situations, lawyer counselors can promulgate brief but informative guidelines for citizen-based organizations operating victim witness projects. Such guidelines will be especially helpful for programs which are joint undertakings of citizen groups and law enforcement agencies.

Benefits of Citizen-Based Organizational and Social Service Programs

There are several reasons bar associations should be motivated to encourage the development of citizen-based victim witness assistance programs. Private citizen involvement with police, prosecution and court agencies can be expected to result in:

- Increased community support for legitimate law enforcement and criminal justice functions;
- Increased levels of criminal justice-community cooperation; and,
- Increased levels of service by law enforcement and criminal justice agencies through ancillary citizen-based programs.

Private citizen involvement with criminal justice agencies will also help to dispel myths and preconceptions which make change and reform difficult. That increased involvement can, in the long run, help reduce and prevent crime.

In addition to the above intangible, long-term benefits which can flow from the bar's success as a catalyst, there are some short-term benefits as well. These benefits will directly affect crime victims and witnesses and may include:

- Marked reductions in unnecessary court appearances by crime victims and witnesses;
- Marked reduction in time lost by victims and witnesses while awaiting their turns to testify in court proceedings;
- Free and continuing mental health counseling for victims of critical crimes—rape, other serious sex offenses, families of homicide victims, etc.
- Advice and affirmative assistance in filing legitimate claims under applicable victim compensation programs;
- Referral services including transportation and escort services;
- Increased levels of personal security and protection for victims and witnesses fearing retribution because of their willingness to testify or to provide information to law enforcement authorities;
- Marked improvement in the expeditious return of recovered stolen property to its rightful owners;
- Increased flow of information in understandable, lay terms to victims and witnesses about case progress, case decisions and the reasons for such decisions;
- Increased consideration for the special needs of senior citizens, handicapped and other special classes of victims and witnesses.

These short term benefits are susceptible to relatively precise measurement and to that extent enable bar committees to evaluate progress within their respective jurisdictions.

Finally, the bar itself stands to benefit from increased citizen involvement with criminal justice agencies. In most cases citizen-based groups which, with bar assistance, choose to participate actively in one or more victim witness assistance projects will have a positive experience. In most cases their efforts to provide help to people in need will win the appreciation of individual victims and criminal justice agencies alike. To that extent such an experience will be a rewarding one for the participating citizen-based organization.

Some of that "reward" is likely to be reserved for the bar. The bar's determination to coordinate a comprehensive community program for crime victims and witnesses will not be lost upon the public, and the success of such bar efforts could go far in enhancing the public perception of the legal profession. Many in the legal profession take pride, justifiable or not, in the fact that theirs is a "helping profession." Certainly within the narrower confines of the criminal justice system, no group needs as much help as the victims and witnesses of crime. A clear demonstration of bar activism in this area of reform will serve the enlightened self-interest of lawyers as well as the public interest and the ends of justice.

CHAPTER 11

Role of the Organized Bar as Program Coordinator

Victim witness assistance programs cannot operate efficiently in a helter-skelter fashion. They demand effective administration. Effectiveness and efficiency, however, are not easily measured in the victim witness assistance field. Victim witness assistance programs are *service* programs and, at times, the services which must be rendered will necessarily be inefficient and time-consuming. While counseling, referral, escort and transportation services can be well-designed, they will not usually lend themselves to production-line techniques. Thus, informed and sensitive administrators charged with or volunteering for the operation of victim witness assistance programs will need to maintain a balance between the efficient delivery and commonly needed services and the effective delivery of necessary individual services.

While recognition of that dichotomy is important, it is not the only administrative and operational challenge which the victim witness assistance administrator will face. A central challenge to the operational quality of any victim witness assistance program will be the extent to which that program succeeds in coordinating its services with criminal justice agencies, with social service agencies and with other victim witness assistance programs. And it is here that the bar can play a vital role.

Few existing groups qualify as natural coordinators for victim witness assistance activities. Neither police nor prosecutors qualify because of the limits of their responsibilities. Courts, while possessing a more fundamental responsibility for the administration of justice generally lack the coordinating machinery and are reluctant to encroach on police and prosecution territory. General units of local government face similar problems and hesitate to become involved with programs which could be construed as encroaching upon an independent judiciary. In addition, attempts to establish victim witness assistance czars and new central coordinating agencies for victim witness assistance programs strike most as arid, unimaginative and unproductive; there simply is no desire for yet another level of bureaucracy. Nor is the promulgation of new, voluminous regulations desirable.

What is needed is a sensible, holistic view of the criminal justice system to decide the extent to which that system—with cooperation from social service and independent citizen groups—can and should expand the quantity and quality of its ancillary services for the benefit of crime victims and witnesses. Also needed is a responsible institution which can be relied upon for the coordination of victim witness assistance programs. In many jurisdictions the bar is the best equipped institution to fulfill the coordination role.

Bar's Strategic Advantages as Program Coordinator

Because its members are officers of the court, serve in every branch of the criminal justice system, work with and represent clients before social service

agencies, and have affiliations with virtually all citizen-based organizations, the bar has unique strategic advantages as a developer and coordinator of victim witness services. In this regard, the bar's assets include:

- Membership of judges, prosecutors, police counsel and defense lawyers;
- Knowledge of and practical experience with all segments of the criminal justice system;
- Knowledge of and practical experience with virtually all social service agencies;
- Knowledge of and ties with most citizen-based organizations;
- Membership in and liaison with virtually all civic and professional organizations;
- Knowledge of and practical experience with the development and operation of community improvement programs.
- Knowledge of and practical experience with federal, state and local governmental and private program funding opportunities; and,
- Professional appreciation for the legal issues and priorities in victim witness assistance.

Because of these and other inherent advantages, the bar can render yeoman service as the informal or unofficial coordinator of victim witness assistance services within a given jurisdiction. While this role must remain an unofficial one, it is of singular importance. The "coordinator" for victim witness assistance services will, for example, assist in:

- The evaluation of existing programs;
- The establishment of new program priorities; and,
- The resolution of conflicts among programs and the building of inter-agency and interorganizational coalitions.

Bar as Counsel in Developing Institutional and Private Programs

Based on its planning and survey work, the bar will be well-situated to perform in the role of counsel for developing victim witness assistance programs. Still, the role of counsel will be one which must be marketed aggressively. The bar will have to seek out "clients," including criminal justice agencies and other groups and organizations interested in developing or expanding victim witness assistance programs.

As counsel to such institutions and organizations, the bar will be responsible to assist in developing service programs which match an organization's ability to perform. For example, assume that a bar association has advertised actively its interest in victim witness assistance and that as a result of that effort has been approached by a local citizen's organization interested in the design and development of a special victim witness assistance program. Assume further that the citizen's group, a consortium composed of local Rotary and National Organization of Women chapters, has drafted preliminary plans to operate a rape crisis center and a witness telephone alert system. The consortium has obtained pledges from local business and private foundation donors to fund these two programs. While the proposals are still preliminary in nature, a quick review indicates that no official contacts have been established with local criminal jus-

tice agencies. The consortium has now sought the bar's advice and counsel. What assistance can the bar render?

First, the bar can analyze the consortium program proposal to determine the extent to which it addresses existing deficiencies in victim witness assistance. Based on that analysis it can recommend, and help draft, appropriate changes in scope. Next, the bar can help the consortium begin a negotiating process with local criminal justice agencies. Within this process will lie the key to the program's success. Each of the programs proposed by the consortium will require the willing support of police, prosecution and court agencies—without that support the programs will fail. Why?

Take the case of the rape crisis center. While such programs can do much private good for individual victims, it is highly desirable that they work in close concert with criminal justice agencies. Mutual benefits can flow from such an association. Those benefits include:

- Providing the police with a professional, well-run referral program which can provide services to rape victims and their families;
- Supplementing existing police services;
- Providing the rape crisis center with police referrals; and,
- Providing meaningful services to crime victims through a private program which can enhance individual and public levels of support for law enforcement and criminal justice agencies.

It is well known that many rape victims choose not to report their victimizations and that such decisions arise for a variety of reasons. Many of the institutional impediments to full reporting are being addressed by private rape counseling and rape crisis programs, and substantial improvements have been made in handling rape cases by criminal justice agencies. Rape crisis programs which accept both reporting and nonreporting victims will, in the long run, serve to encourage fuller reporting. Rape victims fearful of reporting consequences will benefit from contact with victims who have made reports and considerate, thoughtful treatment from rape crisis programs will encourage more active cooperation with law enforcement agencies. These benefits are substantial and can be achieved through a process of pre-program negotiations between private sponsors and law enforcement agencies. As a broker for such negotiations, the bar can help by:

- Summarizing the victim witness problem addressed by the proposed program (and, where feasible, by quantifying that problem);
- Summarizing the concrete ways in which the proposed program will alleviate existing conditions;
- Summarizing specific spheres of responsibility to be undertaken by the private program;
- Cataloging the possible points of conflict between the private program and agencies with criminal justice duties and proposing ways to eliminate or minimize those conflicts; and,
- Defining benchmarks for program measurement and assessment.

In its role as broker the bar can exercise its good offices in helping create mutual understanding and cooperation between criminal justice agencies and

private groups. It can also assist criminal justice agencies in developing strategies for utilizing the services of citizen groups to further legitimate law enforcement goals.

Bar as Vehicle for Creating Cooperative Coalitions

Several preceding sections and chapters have discussed the bar's role as a catalyst in the creation of victim witness assistance programs. Suggestions have also been made of ways the bar can help to shape specific victim witness programs being planned by various institutions and organizations.

There is a third primary function which the bar is well-situated to perform. That function, coalition building, goes hand-in-hand with the bar's catalyst, developer and negotiator roles. The coalition building role is an important one in view of the disarray and disunity which have marked the victim witness assistance field to date.

As a first step in the building of major community coalitions, the bar should undertake an aggressive advertising campaign to make known to public and professional groups the bar's overall campaign to improve services for victims and witnesses. Following that kind of campaign the bar should "market" the coalition concept by preparing a host of program suggestions which could be implemented by various community coalitions. Some likely targets of opportunity would include:

- Jaycee/Chamber of Commerce/police coalitions;
- Trade union/medical association/prosecution coalitions;
- Womens' organizations/hospitals/court coalitions;
- Mental health clinics/church and civic groups/police coalitions; and,
- Student organizations/business and professional groups/police, court or prosecution coalitions.

These are but a few suggestions and local bar associations will be able to conceive of and develop coalitions which will have special significance within their respective jurisdictions.

Analytic coalition building can produce significant amounts of public interest and provide volunteer resources. Most importantly, it can enlist the prestige and influence of locally respected organizations.

In brainstorming possible coalitions, bar associations will want to match organizations and victim witness assistance missions. Thus, in searching for organizations which might operate victim witness transportation programs, bar planners might reasonably look to groups such as the Jaycees and avoid local medical associations. That kind of program calls for the donation of time behind the wheel—time which medical practitioners would be hard pressed to donate. A physician's time, as a pro bono volunteer, would be more productively spent giving examinations to injured victims. Similarly, if a bar were looking for an organization to supply volunteers to operate a switchboard for a court-sponsored witness telephone alert system, local senior citizen organizations would be likely coalition candidates.

With ties to a multiplicity of public and private organizations, civic groups and professional associations, the bar can elicit interest, offer planning assistance, broker alliances and foster inter-organizational efforts. Having accomplished that, the bar can then serve as the informal monitor for victim witness assistance programs.

Bar as Victim Witness Assistance Program Monitor

Many criminal justice improvement programs, and especially those operating "outside" the formal criminal justice system, are given birth only to die out after a brief existence. Some expire because they were poorly planned in the first instance. Some expire because they were fads, created only because funds were made available for a nonessential service. And some expire because they lack the ability to make changes dictated by operating experience.

As counsel to citizen-based programs operating in concert with one or more criminal justice agencies, the bar can serve a vital program monitoring role. That role can be undertaken in a helpful, non-directive manner.

The bar can operate as an informal victim witness assistance program monitor as follows:

- In rendering program planning services to an organization, the bar can assist in developing a series of program benchmarks for assessing program progress and productivity;
- That preliminary monitoring service can be followed by the production and distribution of quarterly monitoring reports to be completed by all victim witness assistance programs. These reports would be simple, brief and as objective as possible (e.g., data on the number of volunteers used, the number and variety of victim services rendered);
- Because one purpose of program monitoring is to encourage outstanding performance, the bar can design and distribute quarterly forecasts which would accompany quarterly reports. Brief, pertinent forecasts would give programs short-term target goals and would provide additional means for the internal assessment of performance;
- To supplement the "paper" monitoring outlined above, the bar can appoint individual members of its Victim Witness Assistance Committee to serve as personal monitoring representatives for individual programs;
- The bar's personal monitoring representatives can establish a uniform quarterly interviewing format for conducting quarterly site visits to all operating programs. The purpose of these visits would be to supplement progress report data, enable monitors to make subjective assessments, etc.;
- Finally, the individual monitoring representatives can meet in committee, report their findings and make recommendations for program changes.

To stimulate continuing program activity, encourage self-evaluation and foster needed changes, the bar can supply each program with a brief, helpful monitoring critique on an annual basis.

CHAPTER 12

Guidelines and Funding Suggestions for Effective and Economical Programs

Victim Witness Assistance Public Information Campaigns

A common shortcoming in victim witness assistance programs is the all-too-typical failure to advertise. A rape crisis center serves badly unless its services are widely and professionally advertised. A state system for compensating crime victims will remain only a "satisfying illusion" without a well-orchestrated advertising campaign designed to inform and solicit applicants. The message is indelible: *victim witness assistance programs must advertise!*

The ramifications of the above postulate for participating bar associations include:

- The need to publicize the bar's overall victim witness assistance improvement drive;
- The need to produce and disseminate professional public information materials explaining specific victim witness assistance programs;
- The need to assist other organizations in the development of multi-media advertising programs to publicize victim witness assistance efforts; and
- The need to assist other organizations in the development of budget plans and forecasts for public information and education components in victim witness assistance programs.

For illustrative purposes, consider the following hypothetical case study of a victim witness assistance program. Assume that the Hillcrest County Bar Association establishes a special Victim Witness Assistance Committee, undertakes and completes a comprehensive analysis of service needs and obtains organizational sponsorship of a variety of specific programs. A joint proposal from the Hillcrest Women's Alliance and the Hillcrest Chamber of Commerce recommends establishment and operation of social service referral system for the county's crime victims.

With the assistance of members of the Hillcrest Bar Association's Victim Witness Assistance Committee, the consortium designs a proposal calling for the preparation of a comprehensive Social Service Referral Manual, the creation and staffing of two Social Service Referral Offices and the operation of a 24-hour telephone Referral Hotline. Each of these major elements is fleshed out in a thorough proposal and heavy reliance is placed on efficient and economical use of volunteers to deliver the proposed services. Moreover, the drafters provide a well-conceived training component as an integral part of their proposal.

The proposal, with the endorsement of the bar and of several criminal justice agencies, receives funding from a local foundation and from several local business enterprises. The program sponsors quietly and effectively recruit and train volunteers, produce their Referral Manual, open their Referral Offices and then sit back to await "customers."

What kind of an investment has the consortium already made? Setting aside the considerable pro bono contributions of the bar and of members of the Alliance and the Chamber, a modest but not insignificant financial pledge has been made, something along the following lines:

<i>Social Service Referral Manual production:</i>	
Research: Three college students at \$5 per hour × 1,200 hours	\$6,000
Printing, binding and reproduction costs: 150 page manual, photo offset with looseleaf, three-ring binder, at \$5 per copy × 500 copies	2,500
<i>Office Rental:</i>	10,800
Two social service referral offices at 600 square feet each at \$9 per square foot	
<i>Furniture, equipment and supplies:</i>	6,000
(Even with some donated furniture)	
<i>Telephones:</i>	10,000
Two office phone systems plus the proposed hotline	
<i>Personnel:</i>	00
No cost—all volunteer staff	
Estimated project cost:	<u>\$35,000</u>

By almost any standards, the above would represent a modest budget for a countywide program. The absence of a public information line item in the budget would, however, be a serious program defect.

What kind of public information budget would a victim witness assistance program planner, operator or monitor wish to see in a social referral program? First, an adequate budget for printing and distributing the Social Service Referral Manual itself is essential. Optimally, the printing budget would include funds for art work. Next, funds are required to advertise the services offered. Planners, operators and monitors should look into costs associated with spot television and radio ads. They should also examine costs associated with the production and distribution of posters (for display in libraries, schools, supermarkets and the like), brochures and wallet cards. While some advertising will be donated, a reserve advertising and public information budget of \$10,000 would significantly enhance the effectiveness of this kind of program.

Public information and advertising costs should be built into practically every victim witness assistance program operated by, or generated by, the bar committee. Because these costs can be appreciable, alternative funding strategies should be pursued. Such strategies would include:

- Bar committee approaches to local advertising councils and associations for the pro bono contribution of advertising talent and services;
- Bar committee solicitations directed at leading local advertising agencies, both private firms and corporate departments;
- Bar committee approaches to local television and radio stations seeking public service contributions in the form of design and airing of public service ads; and,
- Bar committee solicitation of special advertising funding for victim witness assistance programs.

A publication entitled *Public Relations Guide for State & Local Bar Associations* prepared by the American Bar Association Standing Committee on Association Communications and the Division of Communications contains several chapters specifically addressing various ways to run effective public information campaigns. Single copies are available free of charge from the Circulation Department, American Bar Association, 1155 E. 60th Street, Chicago, Illinois 60637. Additional copies are \$4.95 each.

Volunteers and Other Low-Cost Personnel

Inflationary pressures, dwindling investment portfolios and shrinking public and private operating budgets hold little promise for the institution of major new social service programs. As in most service programs, the largest single cost factor in victim witness assistance programs is personnel. This is true whether the program is operated by the bar, by line criminal justice agencies or by social service or citizen-based organizations. For example, in a fairly typical metropolitan suburban police department, the cost of staffing a Victim Witness Assistance Unit with five sworn officers would be in the neighborhood of \$120,000. And that would be exclusive of all operating costs. Similar costs would be encountered within prosecutors' offices and courts. Clearly, personnel staffing costs can be a substantial financial roadblock to the establishment and operation of new programs.

Personnel staffing cost problems should be anticipated and program planners, operators and monitors should attempt to develop alternative staffing strategies, including:

- Utilization of staff volunteers (though planners should note that this is not a cost-free alternative and that effective volunteer-operated programs require especially thoughtful planning and supervision).
- Utilization of paralegals, police aides or other non-sworn personnel, court administrative personnel and others in victim witness assistance programs. Highly paid professionals are not necessarily required, and other adequately trained personnel can perform effectively.
- Utilization of part time-supervisors to oversee victim witness assistance programs. And,
- Utilization of corporate and university-level part-time program supervisors and monitors.

The principal recommendation of this Manual for reducing personnel costs is the creation by bar committees of victim witness assistance volunteer corps programs. Within most communities there are untapped pools of volunteer workers. Senior citizens constitute one very major source for volunteer recruiters. In addition to the availability of many retired persons, there are facets of victim witness assistance which may be especially attractive to them. Senior citizens are, increasingly, themselves the victims of crime. Many senior citizens have a more than usual apprehension about crime and are unusually sympathetic toward those who are victimized. Moreover, many retired persons seek active roles which will provide frequent contact with other people—a desire well-suited to work in victim witness assistance. Other major community groups which offer attractive recruiting pools of volunteers include students (high school and college) and members of service-oriented civic groups. With appro-

priate training and with intelligent scheduling, such volunteers can play an effective, productive role in a variety of victim service delivery activities.

While victim witness assistance program planners and operators should recognize that volunteers can make a program economically feasible, they must also be aware that poorly trained volunteers will spell doom for the program. Likewise, poor volunteer attitudes such as "it's not *really* a job" can be fatal to the program. What key factors should the program planner keep in mind when designing project aspects dealing with volunteer service delivery?

- First, volunteer training is absolutely fundamental to the program's success. Volunteers—whether senior citizens, students or civic organization members—should receive a professionally designed criminal justice orientation course. That course should provide an explanation of the system and how it works; a clear and detailed explanation of specific volunteer jobs which need to be performed; and a clear and precise idea about the overall program goals.
- Secondly, volunteer scheduling is crucial if proper program coverage is to be achieved. A well-designed volunteer system will offer alternative work or service periods to accommodate individual volunteers. Moreover, individual volunteers should enter into service contracts specifying precise duty assignments. A carefully planned emergency backup system should be planned to provide coverage during a variety of emergency situations.
- And finally, volunteer management and performance monitoring is required. Sound management requires volunteer performance evaluation and a system of performance recognition. Managers should not minimize the importance of developing a means for recognizing volunteer efforts and achievements.

While aggressive and imaginative efforts by bar committees will uncover a host of institutions willing to supply some personnel assistance in the operation of victim witness assistance programs, bar planners will generally find that programs with heavy volume service components must depend upon the utilization of volunteers.

Funding Strategies

No matter how successful bar planners are in developing plans for low cost programs, some funds almost certainly will be required. Where can the bar look for funding assistance? And what kind of funding strategy is most likely to produce funds?

Major national foundations and major federal programs generally represent a poor source of funding assistance. As a rule of thumb, bar committees should look for local funding opportunities. What kind of institutions should be approached?

- Local corporations and business enterprises (including branch or regional offices of major national corporations);
- Local civic and professional groups;
- Local business and "family" foundations;
- Churches and religious organizations;
- Local colleges and universities;

- Local social organizations; and,
- Local units of government.

In addition to the above, bar leaders should also be familiar with the opportunities afforded under the Justice System Improvement Act of 1979 (Public Law 96-157)*. That Act amends the Omnibus Crime Control and Safe Streets Act of 1978 and empowers the Law Enforcement Assistance Administration to make formula grants to states and units of local government for twenty-three specific purposes, including:

Developing and implementing programs which provide assistance to victims, witnesses and jurors, including restitution by the offender, programs encouraging victim and witness participation in the criminal justice system, and programs designed to prevent retribution against or intimidation of witnesses by persons charged with or convicted of crime.

This important amendment to the LEAA legislation should, at a minimum, encourage more State Law Enforcement Planning Agency action in the victim witness assistance field and it does represent a possible funding source for bar association victim witness assistance programs. Under section 404(e) of this amendment, a state may award funds from the state allocation (the state's block grant from LEAA) to private non-profit organizations. Section 402 provides that State Criminal Justice Councils (the supervising boards for each state's law enforcement planning agency) shall be broadly representative and shall include among its membership "professional organizations." It also provides that the chief executive of each eligible jurisdiction (municipalities, counties and combinations of contiguous units of local government) shall establish local criminal justice advisory boards which, like the state councils described above, shall include representatives of professional organizations.

The American Bar Association strongly supported the inclusion of the term "professional organizations" within section 402 and this amendment provides express eligibility for state and local bar associations to be represented in criminal justice planning and funding activities at the state and local levels. This represents an opportunity and a resource which should not be ignored by bar associations.

To assist state and local bars, this Manual contains as an Appendix a roster of all State Law Enforcement Planning Councils. Bar associations unfamiliar with the planning and program funding procedures of those agencies may wish to contact their state agency to obtain appropriate funding rules, guidelines and application forms.

A second source of federal funds which might be investigated is the Public Service Employment (PSE) component of the Comprehensive Employment and Training Act (CETA). PSE is subsidized employment with public and non-profit employers who provide public services. According to an American Bar Association "Interim Report on Employment and Training Activities in the Criminal Justice Field", at least 112 specialized or general victim witness assistance programs received FY79 PSE funds. The funds are distributed by CETA programs

*At the time this manual went to press, Congress was considering various budget resolutions, including several proposals calling for substantial funding cutbacks for LEAA.

designated by the Department of Labor as "prime sponsors." Information on the prime sponsor(s) in a given region can be obtained from the Administrator of Field Operations, Employment and Training Administration, U.S. Department of Labor, Washington, DC 20213.

Just as important as knowing *who to ask* is knowing *what to ask for*. Thus, after identifying potential funding sources, bar associations must frame funding requests which are clear, precise and persuasive. While even local foundations and other local organizations have individual proposal rules and procedures, some basic rules of proposal preparation are almost universal. They include the following (in the order listed below):

- Introduce the problem in clear, simple terms. Give an overview of some concrete examples of the problem and how it affects people in the particular community. *Keep the introduction brief.*
- Specify the particular problem area the proposal addresses. Explain why it was selected.
- Describe the program in *specific terms*. Whenever possible quantify the problem and the proposal's attack on that problem. (For example, don't tell a prospective benefactor that the program will provide counseling services for crime victims. That doesn't mean anything! Instead, and based on careful analysis, tell the prospective funding organization that the program's four trained volunteers will provide social service referral services through two branch offices to an estimated 600 crime victims per quarter. Then list the full panoply of actual referral services which will be offered. The message is simple: be very specific.)
- Describe the program's forecast of service activities on a quarterly basis. Tell the proposed funder exactly what is expected to be accomplished in each quarter of the calendar opportunity.
- Include a detailed, line item budget. List all project costs (personnel, office rent, furniture, supplies, phone, postage, travel, training, etc.) and *prominently* list all pro bono and in-kind contributions. Stress the sponsoring organization's contributions to the overall project cost.
- Explain why the proposal recipient was selected and why the proposal merits that funding organization's consideration. For example, state how the proposal coincides with the funding organization's goals and philosophy.

The six proposal suggestions set forth above are not novel; however, they do offer some empirical advice which, if followed, will enhance a program's funding prospects. In addition, the suggestions will serve as management tools for the subsequent administrative guidance of a victim witness assistance project.

Additional advice on funding sources and proposal writing is available from a number of sources including: *To Light One Candle: A Manual for Organizing, Funding and Maintaining Public Service Projects* (American Bar Association, 1155 E. 60th Street, Chicago, IL 60637; \$6.00); *Grants: How to Find Out About Them and What To Do Next* (Plenum Press, 227 W. 17th Street, New York, New York 10011; \$19.50); *Foundation Directory* (Columbia University Press, 136 S. Broadway, Irvington, NY 10533; \$35 plus \$1 postage and handling); and *Developing Skills in Proposal Writing* (Continuing Education Publications, 1633 S.W. Park, Portland, OR 97207; \$12.50).

Some Keys to the Preparation of Modest Proposals

One key to economy has already been described: large scale use of volunteers to staff victim witness assistance programs. There are other techniques which program planners and operators can employ to keep the hard cash levels of victim witness assistance programs down to acceptable limits.

The primary key is the "in-kind" contribution of goods, services and equipment. To demonstrate the significance of such contributions, assume that the Hillview County Bar Association has designed a major victim witness assistance proposal to construct and staff a Victim Witness Assistance Center within the county's Circuit Court Building. Using the good offices of the bar association, appropriate endorsements have been secured from the Circuit bench, from the County Commissioners and from various civic organizations. Based on detailed estimates, the construction renovation work if let on competitive contract would cost about \$100,000. The bulk of that cost would be the cost of labor. Through negotiations with labor unions and construction management, the bar is able to secure the labor as an "in-kind" contribution. Next, through solicitations to major department stores and furniture retailers, the bar secures an "in-kind" contribution of all reception and office furniture. To reduce printing costs for forms, brochures and other public information materials, a printing firm is located which is willing to do the project's work on a cost basis.

The solicitation efforts described above—admittedly optimistic—produce "in-kind" contributions amounting to approximately \$100,000: \$75,000 in labor, \$15,000 in furniture and office equipment and a printing savings of about \$10,000.

In addition, the program fund raisers made an effort to spread the costs—they did not seek all their funding from one source. And that is an important point. Many victim witness assistance programs will require inter-agency cooperation from an operational point of view. That same cooperative philosophy can be utilized to finance victim witness assistance programs. Donations of equipment, supplies, labor and other services are, at times, less burdensome and more feasible than cash awards. Program planners should actively pursue this financing vehicle at the local level.

To assist bar associations in the development of victim witness assistance financial plans, Appendix 6 to this Manual contains five sample budgets which provide some monetary guidelines for the operation of programs in small, medium and large jurisdictions.

Resources

The chief resource which bar leaders should look to will reside in the talents, learning and energy of bar association members. They, above all, should understand and appreciate the tug-and-pull of criminal justice administration. And they, more than most, should be aware of the plight of crime victims and witnesses.

Outside the bar, there are several sources which can be tapped for information or expertise in the specific subject area of victim witness assistance. The Law Enforcement Assistance Administration (LEAA) maintains within its Washington, D.C. headquarters a special Victim Witness Unit responsible for

the development and monitoring of overall national strategies in victim witness assistance. Valuable information about victim witness assistance programs and priorities may be obtained by contacting:

Victim Witness Unit
Special Programs Division
Office of Criminal Justice Programs
Law Enforcement Assistance Administration
U.S. Department of Justice
633 Indiana Avenue, NW, Room 700
Washington, D.C. 20531
202/724-5905

The Criminal Justice Section of the American Bar Association, through its staff, its LEAA-funded Bar Leadership Project on Victim Witness Assistance, and its Victims Committee can provide continuing advice to state and local bar associations desiring information and guidance in the victim witness assistance field. Specific information about the Bar Leadership Project can be obtained from:

Bar Leadership Project on Victim Witness Assistance
Section of Criminal Justice
American Bar Association
1800 M Street, N.W. Second Floor
Washington, D.C. 20036
202/331-2260

The experience of the Victims Committee members (see Appendix 5) constitutes a considerable ABA resource. Since the Committee was created in 1976, it has engaged in a wide range of criminal justice improvement activities. Most recently it has published a document entitled "Reducing Victim/Witness Intimidation: A Package." This publication incorporates not only Committee views but the views of many prominent witnesses who testified at public hearings held by the Committee in Washington, D.C. in June, 1979.

Bar associations and lawyers interested in the subject of victim rights litigation should be aware of a new consulting resource. The Crime Victims Legal Advocacy Institute will provide consultation services and memoranda of law on third party victim's rights litigation issues on a pro bono basis. Interested associations and individual lawyers should contact:

Crime Victims Legal Advocacy Institute
Suite 9
First & Merchants Building
210 Laskin Road
Virginia Beach, Virginia 23451
804/422-2692

CHAPTER 13

Planning for and Executing Program Evaluation

Notwithstanding claims made by a variety of "management experts," action program evaluation is an art, not a science. But it is an art which must be practiced by any bar association determined to have a major impact in the area of victim witness assistance.

While the subject of evaluation has been reserved for the last chapter of this manual, actual evaluation plans should begin in the earliest stages of the bar's involvement in this critical area of criminal justice reform.

How can the bar's Victim Witness Assistance Committee plan and execute an evaluation program which produces program and performance improvements? While there is no single correct method, there are some general "rules" to follow in designing program evaluation components:

- First, start thinking about program evaluation while designing the program;
- Next, provide a skeletal evaluation framework by quantifying project goals whenever possible;
- Then, set periodic (e.g., monthly, quarterly) evaluation progress report deadlines;
- In addition, determine at the outset exactly what these periodic evaluation reports should cover and why;
- Finally, make certain that the evaluation rationale is clear and goal-oriented.

These "rules" sound easy to follow. Yet, many so-called action projects fail to follow them and encounter evaluation difficulties as a consequence.

It may be helpful to take a look at the proposed evaluation "rules" within a victim witness assistance program context. Assume, then, that the program being planned involves the establishment of a joint Police/Prosecution/Court/Citizen Association Victim Witness Assistance System. In brief, preliminary plans call for several major program components, including:

- A Police Victim Referral Service to be staffed by citizen volunteers; and,
- A Prosecution/Court Witness Telephone Alert System to be staffed by citizen volunteers.

These two program components were selected because the planning committee's analysis revealed that a wide variety of existing social service programs were not being utilized by crime victims and because an inordinate percentage of all witnesses summoned to give testimony in criminal cases experienced long and unnecessary delays.

Armed with this information, program planners should be thinking about not only what the program will actually do, but how they will attempt to measure and evaluate what the program does. Clearly, the two program components

described above lend themselves to a variety of evaluative measurements. For example, program designers working on the Police Victim Referral Service would be well advised to draft initial evaluation guidelines to obtain feedback from both victims and the social service agencies to which they are referred for service.

Program planners should quantify forecasted goals. Thus in the Police Victim Referral Service quarterly target goals would be set, e.g., 1,000 victim interviews per quarter resulting in 250 victim referrals. These arbitrary target goals could be adjusted based on actual operating experience. With even arbitrary, quantified goals in mind, however, planners have a framework for establishing a series of evaluation reports.

After setting reporting deadlines, some initial thought should be given to report content. Even without any operating experience, planners can frame a skeletal outline covering essential evaluation points which can be refined as the program proceeds. In the Police Victim Referral Service case cited above, a skeletal outline for a quarterly evaluation report might look like:

**WARREN COUNTY BAR ASSOCIATION
VICTIM WITNESS ASSISTANCE COMMITTEE
QUARTERLY PROJECT EVALUATION REPORT**

TITLE OF PROJECT: Hopewell Police Department Crime Victim Referral Service

PROJECT SPONSOR/S: Hopewell Police Department, League of Women Voters and Warren County Bar Assn.

BAR ASSOCIATION LIAISON/MONITOR: R. Richardson Smith, Esq.
210 Broad Street
800/200-3101

PROJECT DIRECTOR: Ms. Joan K. Woolsey
c/o Hopewell Police Department

QUARTERLY PROJECT FORECAST OF ACCOMPLISHMENTS (FROM PROJECT PROPOSAL) AND ACTUAL PERFORMANCE:

First Quarter Forecasts	First Quarter Performance
<u>1,000 Victim interviews</u>	<u>800 Victim interviews</u>
<u>250 Victim referrals</u>	<u>100 Victim referrals</u>

PROGRAM EFFECTIVENESS MEASUREMENTS: Detailed follow-up visits were made to all participating social service agencies (see attached list). 78% of referred victims were found eligible for and received services. Random calls were made to 15 of the 78 victims to seek their views about the service. In addition, all rejected victim applicants were visited to elicit their views (see attached reports).

BAR ASSOCIATION RECOMMENDATIONS: Bar should formally contact Director of Employment Counseling Office to determine why that agency rejected all victim applicants. Bar should convene meeting between Chief of Police, Project Director and heads of all participating social service agencies to commend all officials on real progress and to push for increased flow of referrals.

This brief "quarterly evaluation report" contains some useful information for the program's managers, participants and clients. Moreover, it demonstrates that its bar association sponsor has developed a practical evaluation rationale. Here, the Warren County Bar Association has designed a simple report format which requires a modest amount of program data. The data at the end of the first quarter suggests a shortfall in client volume. It also raises questions as to why one particular public social service agency has rejected as ineligible all referred crime victims. Recommendations aimed at improving the program's effectiveness flow from these findings. And that is, or should be, the only rationale behind action program evaluation.

Measuring Overall Progress in Victim Witness Assistance

Individual project evaluations are important and the bar should encourage all program operators to undertake modest, self-evaluation efforts. Designed with the assistance of the bar, such evaluations can improve individual program performance and help tailor program operations to fit the real needs of crime victims and witnesses.

But ad hoc program evaluations are not the only evaluative tool which the bar can employ. Comprehensive victim witness assistance plans formulated and executed by the bar merit periodic and comprehensive evaluation reports. Bar liaison and monitoring officers, keeping watch over individual programs can assist in the preparation of annual performance assessments designed to inform the bar, criminal justice agencies and the public of progress in the design and delivery of victim witness services.

Thus, annual performance statements on the state of victim witness assistance within the jurisdiction's criminal justice framework will serve to bring public attention to bear on both improvements and on additional remedial efforts requiring attention. A formal, annual statement by the bar listing significant victim witness achievements will reflect credit upon the bar and its membership. Finally, such an annual assessment will help to create the climate of public opinion necessary for continuing, long lasting improvements in victim witness assistance.

Evaluation and Institutional Opinion

While many criminal justice agencies have within the past several years voluntarily established effective and innovative victim witness assistance programs, bar leaders and members should nonetheless be prepared to deal with a good deal of institutional inertia. Change, especially change advocated by *someone else*, is almost always bureaucratically suspect. Thus, many institutions will look for reasons to drag their feet. That kind of inertia or institutional reluctance is understandable and can be overcome.

One way to overcome it is to be able to demonstrate to criminal justice or social service agency officials that the program has *institutional* benefits—benefits above and beyond those which flow to individual crime victims and witnesses. And thoughtfully framed evaluations can serve to demonstrate institutional benefits. How?

Consider the following evaluation techniques which can be employed to illustrate the various institutional advantages in victim witness assistance programs:

- Demonstrate in terms of dollars and labor hours the law enforcement savings which can flow from a mail subpoena system. There are many advantages to such a system, not the least of which is its "non-threatening" posture. But, to a busy, harried law enforcement executive worried about budget costs, its most attractive aspect may well be the financial savings involved. So, in planning and in evaluating such a program, *cost out the savings!*
- Demonstrate in terms of dollars, labor hours and office rent the law enforcement savings which can flow from a computerized property return system—a system which does away with the warehousing of thousands of items of recovered stolen property. The immediate benefits to crime victims are apparent; still, law enforcement officials may well be persuaded by cost savings.
- Demonstrate in terms of dollars and labor hours the savings which can be realized by using paralegals or trained volunteers in police and prosecution-operated victim witness assistance programs. Sworn police officers and attorneys can be freed to attend to pressing criminal justice matters. Emphasize the tangible and intangible benefits to the criminal justice agency.

These are but a few examples of constructive ways to use evaluation plans and reports to win institutional support for a wide variety of victim witness assistance programs. That support is vital. If it could be won through moral or philosophical arguments, it would have been won long ago. Thus institutional self-interest must be used to buttress institutional obligation arguments.

The Uses of Evaluation

Throughout, this manual has attempted to emphasize practical, common sense and modest programs. Some of the program ideas suggested within these chapters will be too ambitious for implementation by small bar associations and some well-financed, large bar associations will wish to do far more than suggested here. In either case, the value of a disciplined evaluation should not be overlooked. Evaluation will help any bar association:

- Formulate coherent, disciplined initial proposals: that is, *a priori* attention to evaluation requirements will assist in the actual preparation of an organized, well-planned program;
- Measure the merit, including the cost effectiveness, of alternative victim witness assistance activities;
- Establish both short and long-term priorities;
- Compile a data base for demonstrating institutional as well as individual benefits which may flow from victim witness assistance programs;
- Compile both statistical and anecdotal data to create public support for continuing victim witness assistance activities; and,
- Enhance its own standing as a public service organization.

In designing evaluation components for programs to be operated by the bar or by other cooperating organizations and institutions, planners should remember that evaluation efforts, like other program components, cost money. However, modestly funded programs do not require highly technical, sophisticated evaluations.

One way to keep costs down is to make certain that the evaluation is pertinent to the specific victim witness assistance issues addressed in the particular program. If, for example, a bar association has planned and operated a program to provide intensive counseling services to the victims of rape and other sexual assaults, an adequate program evaluation would, at a minimum, analyze the following issues:

- **Quantity of services rendered:** a simple analysis of reported offenses, attempted referrals, actual referrals, type and duration of counseling services rendered, etc.;
- **Client referral mechanism:** "explanation" of both high and low volume referrals from various law enforcement agencies and other organizations;
- **Client services:** descriptions of clients (i.e., actual victims, families of victims) and statistical and narrative examinations of the specific kinds of counseling rendered (e.g., one-on-one, group sessions with trained therapists, self-run groups conducted by victims);
- **Victim benefits:** assessments as to the value of the services from the victims' point of view. Surveys and individual interviews would attempt to determine how, if at all, the services helped, which program aspects were most—and least—helpful, etc.;
- **Criminal justice benefits:** assessments as to whether the program provides tangible assistance to police and prosecutors in the apprehension and conviction of offenders; and,
- **Administration of justice benefits:** assessments as to whether the program alters the attitudes of victims and public about the adequacy, fairness and effectiveness of the administration of justice.

These analyses all attempt, in one way or another, to measure program "impact." Most of the analyses will contain a subjective element and will therefore produce conclusions and recommendations susceptible to differing interpretations. In spite of that caveat, evaluation efforts merit the bar's attention. Serious bar efforts to measure the real impact of a variety of victim witness assistance programs will help insure that good programs receive continuing support, that ineffective programs are improved or curtailed and that permanent criminal justice changes in the treatment of victims and witnesses are based on sound results.

Appendix 1

Directory of State Criminal Justice Councils

Alabama

Alabama Law Enforcement Planning
Agency
2863 Fairlane Drive, Executive Park
Building F, Suite 49
Montgomery, Alabama 36111
(205) 277-5440

American Samoa

Criminal Justice Planning Agency
Government of American Samoa
P.O. Box 7
Pago, Pago, American Samoa 96799
Pago, Pago 633-5222

Arkansas

Arkansas Crime Commission
1515 Building, Suite 700
Little Rock, Arkansas 72202
(501) 371-1305

Colorado

Division of Criminal Justice
1313 Sherman Street
Room 400-D
Denver, Colorado 80203
(303) 839-3331

Delaware

Delaware Criminal Justice Planning
Commission
State Office Building, Fourth Floor
820 North French Street
Wilmington, Delaware 19801
(302) 571-3430

Florida

Bureau of Criminal Justice Planning
and Assistance
530 Carlton Building, Room 215
Tallahassee, Florida 32304
(904) 488-6001

Alaska

Governor's Commission on the
Administration of Justice
Pouch AJ
Juneau, Alaska 99801
(907) 465-3591

Arizona

Arizona State Justice Planning
Agency
Professional Plaza, Suite 400
4820 North Black Canyon
Freeway
Phoenix, Arizona 85017
(602) 255-5466

California

Office of Criminal Justice Planning
7171 Bowling Drive
Sacramento, California 95823
(916) 445-9156

Connecticut

Connecticut Justice Commission
75 Elm Street
Hartford, Connecticut 06115
(203) 566-3020

District of Columbia

Office of Criminal Justice Plans and
Analysis
421 8th Street, N.W., 2nd Floor
Washington, D.C. 20004
(202) 727-6537

Georgia

State Crime Commission
Suite 625
3400 Peachtree Road, N.E.
Atlanta, Georgia 30326
(404) 894-4410

Guam

Guam Criminal Justice
Planning Agency
Office of the Governor
P.O. Box 2950
Agana, Guam 96910
Guam 772-8781

Idaho

Law Enforcement Planning
Commission
State House, Annex No. 3
Boise, Idaho 83707
(208) 334-2364

Indiana

Indiana Criminal Justice Planning
Agency
215 N. Senate
Indianapolis, Indiana 46202
(317) 232-1233

Kansas

Governor's Committee on Criminal
Administration
503 Kansas Avenue, 2nd Floor
Topeka, Kansas 66603
(913) 296-3066

Louisiana

Louisiana Commission on Law
Enforcement and Administration
of Criminal Justice
1885 Wooddale Boulevard, Room 615
Baton Rouge, Louisiana 70806
(504) 925-4436

Maryland

Governor's Commission on Law
Enforcement and Administration
of Justice
One Investment Place, Suite 700
Towson, Maryland 21204
(301) 321-3636

Michigan

Office of Criminal Justice
Lewis Cass Building, Second Floor
Lansing, Michigan 48909
(517) 373-6655

Hawaii

State Law Enforcement and Juvenile
Delinquency Planning Agency
1010 Richards Street
Kamamalu Building, Room 412
Honolulu, Hawaii 96813
(808) 548-4572

Illinois

Deputy Director
Illinois Law Enforcement
Commission
120 South Riverside Plaza
Chicago, Illinois 60606
(312) 454-1560

Iowa

Iowa Crime Commission
Lucas State Office Building
Des Moines, Iowa 50319
(515) 281-3241

Kentucky

Executive Office of Staff Services
Department of Justice
State Office Building Annex, 2nd
Floor
Frankfort, Kentucky 40601
(502) 564-3251

Maine

Maine Law Enforcement Planning
and Assistance Agency
11 Parkwood Drive
Augusta, Maine 04330
(207) 289-3361

Massachusetts

Committee on Criminal Justice
110 Tremont Street, Fourth Floor
Boston, Massachusetts 02108
(617) 727-5497

Minnesota

Crime Control Planning Board
444 Lafayette Road, 6th Floor
St. Paul, Minnesota 55101
(612) 296-3133

Mississippi

Mississippi Criminal Justice Planning
Division
Office of the Governor
723 N. President Street
Jackson, Mississippi 39202
(601) 354-4111

Montana

Board of Crime Control
303 North Roberts, Scott Hart
Building
Helena, Montana 59601
(406) 449-3604

Nevada

Commission on Crime, Delinquency
and Corrections
430 Jeanell, Capitol Complex
Carson City, Nevada 89710
(702) 885-4405

New Jersey

Law Enforcement Planning Agency
3535 Quaker Bridge Road
Trenton, New Jersey 08625
(609) 292-3741

New York

State of New York
Division of Criminal Justice Services
80 Centre Street, 4th Floor
New York City, New York 10013
(212) 488-3896

North Dakota

North Dakota Combined Law
Enforcement Council
Box B
Bismarck, North Dakota 58501
(701) 224-2594

Oklahoma

Oklahoma Crime Commission
3033 N. Walnut
Oklahoma City, Oklahoma 73105
(405) 521-2821

Missouri

Missouri Council on Criminal Justice
P.O. Box 1041
Jefferson City, Missouri 65101
(314) 751-3432

Nebraska

Nebraska Commission on Law
Enforcement and Criminal Justice
State Capitol Building
Lincoln, Nebraska 68509
(402) 471-2194

New Hampshire

New Hampshire Crime Commission
169 Manchester Street
Concord, New Hampshire 03301
(603) 271-3601

New Mexico

Division of Administrative Services
Department of Criminal Justice
113 Washington Avenue
Santa Fe, New Mexico 87501
(505) 827-5222

North Carolina

Division of Crime Control
P.O. Box 27687
Raleigh, North Carolina 27611
(919) 733-4000

Ohio

Administration of Justice Division
30 East Broad Street, 26th Floor
Columbus, Ohio 43215
(614) 466-7610

Oregon

Executive Department, Law
Enforcement Council
2001 Front Street, N.E.
Salem, Oregon 97310
(503) 378-4347

Pennsylvania

Pennsylvania Commission on Crime
and Delinquency
P.O. Box 1167, Federal Square Station
Harrisburg, Pennsylvania 17108
(717) 787-2040

Rhode Island

Rhode Island Governor's Justice
Commission
110 Eddy Street
Providence, Rhode Island 02903
(401) 277-2620

South Dakota

South Dakota State Criminal Justice
Commission
200 West Pleasant Drive
Pierre, South Dakota 57501
(605) 773-3665

Texas

Criminal Justice Division
Office of the Governor
411 West 13th Street
Austin, Texas 78701
(512) 475-4444

Utah

Utah Council on Criminal Justice
Administration
255 South Third East
Salt Lake City, Utah 84111
(801) 533-5731

Virginia

Division of Justice & Crime
Prevention
8501 Mayland Drive
Richmond, Virginia 23229
(804) 281-9276

Washington

Division of Criminal Justice
Office of Financial Management
102 North Quince M.S. GF-01
Olympia, Washington 98504
(206) 753-2235

Puerto Rico

Executive Director
Puerto Rico Crime Commission
GPO Box 1256
Hato Rey, Puerto Rico 00936
(809) 783-0398

South Carolina

Division of Public Safety Programs
Edgar A. Brown State Office Building
1205 Pendleton Street
Columbia, South Carolina 29201
(803) 758-3573

Tennessee

Tennessee Law Enforcement
Planning Agency
Browning-Scott Building
4950 Linbar Drive
Nashville, Tennessee 37211
(615) 741-3521

Trust Territory of the Pacific Islands

Justice Improvement Commission
Capitol Heights, Rural P.O. Branch
Trust Territory of the Pacific Islands
Saipan, Mariana Islands 96950

Vermont

Vermont Commission on the
Administration of Justice
149 State Street
Montpelier, Vermont 05602
(802) 828-2351

Virgin Islands

Virgin Islands Law Enforcement
Planning Commission
Box 3807
St. Thomas, Virgin Island 00801
(809) 774-6400

West Virginia

Criminal Justice and Highway Safety
Division
Morris Square, Suite 321
1212 Lewis Street
Charleston, West Virginia 25301
(304) 348-8814

Wisconsin

Wisconsin Council on Criminal
Justice
122 West Washington Avenue
Madison, Wisconsin 53702
(608) 266-3323

Wyoming

Governor's Planning Committee on
Criminal Administration
Barrett Building, 4th Floor
Cheyenne, Wyoming 82002
(307) 777-7716

Appendix 2

Directory of Offices of State Crime Victim Compensation

Violent Crime Compensation Board
Pouch N
Juneau, Alaska 99811
(907) 465-3040

Victims of Crime Program
State Board of Control
926 J Street, Suite 300
Sacramento, California 95814
(916) 322-4426, 445-1540

Victim Compensation Program
Criminal Injuries Compensation
Board
80 Washington Street
Hartford, Connecticut 06115
(203) 566-4156, 522-3219

Violent Crime Compensation Board
800 Delaware Avenue, Suite 601
Wilmington, Delaware 19801
(302) 571-3030

Crimes Compensation Commission
Montgomery Building, Suite 201
2562 Executive Center Circle East
Tallahassee, Florida 32301
(904) 488-0848

Claims Advisory Board
State Capitol Building, Room 214
Atlanta, Georgia 30334
(404) 656-2881

Criminal Injuries Compensation
Commission
P.O. Box 399
Honolulu, Hawaii 96809
(808) 548-4680

Crime Victims Program
Department of the Attorney General
22nd Floor—Suite 2200
188 West Randolph
Chicago, Illinois 60601
(312) 793-2585

Violent Crime Compensation
Division
17 West Market Street, Suite 546
Indianapolis, Indiana 46204
(317) 633-7083

Crime Victims Reparations Board
503 Kansas Avenue, Suite 343
Topeka, Kansas 66603
(913) 296-2339, 296-2359

Crime Victims Compensation Board
113 East Third Street
Frankfort, Kentucky 40601
(502) 562-2291, 387-2192

Criminal Injuries Compensation
Board
1123 North Eutaw Street
601 Jackson Towers
Baltimore, Maryland 21201
(301) 523-5000

Assistant Attorney General
Torts Division
One Ashburton Place
Boston, Massachusetts 02108
(617) 727-5025

Crime Victims Compensation Board
The Plaza Hotel, Suite 809
111 S. Capitol Avenue
P.O. Box 30026
Lansing, Michigan 48909
(517) 374-9484

Crime Victims Reparations Board
702 American Center Building
160 E. Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 296-7080

Crime Victims Unit
Workmen's Compensation Division
815 Front Street
Helena, Montana 59601
(406) 449-5633

Crime Victims Reparation Board
State Capitol—Sixth Floor
Lincoln, Nebraska 68509
(402) 471-2828

Board of Examiners
Blasdel Building, Room 205
209 E. Musser Street
Carson City, Nevada 89710
(702) 885-4065

Violent Crimes Compensation Board
1180 Raymond Blvd., Room 802
Newark, New Jersey 07102
(201) 648-2107

Crime Victims Compensation Board
270 Broadway
New York, New York 10007
(212) 488-5080

Crime Victims Reparations
Workmen's Compensation Bureau
Russel Building—Highway 83 North
Bismarck, North Dakota 58505
(701) 224-2700

Victims of Crime Division
Court of Claims
255 East Main Street, 2nd Floor
Columbus, Ohio 43215
(614) 466-6480

Crime Victims Compensation Fund
SAIF Building
Salem, Oregon 97312
(503) 378-5348

Crime Victims Compensation Board
Justice Department
Strawberry Square
Harrisburg, Pennsylvania 17120
(717) 783-5153

Office of State Court Administrator
Providence County Court House
250 Benefit Street
Providence, Rhode Island 02903
(401) 277-3266

Criminal Injuries Compensation
Board
State Board of Claims
450 James Robertson Parkway
Nashville, Tennessee 37219
(615) 741-2734

Texas Industrial Accident Board
Crime Victim Division
P.O. Box 12757
Capital Station
Austin, Texas 78701
(512) 475-8362

Division of Crime Victims
Compensation
Department of Workmen's
Compensation
Industrial Commission of Virginia
P.O. Box 1794
Richmond, Virginia 23214
(804) 786-5170

Crime Victims Compensation
Commission
P.O. Box 539
St. Thomas, Virgin Islands 00801
(809) 774-1166

Crime Victims Division
Department of Labor and Industries
Olympia, Washington 98504
(206) 753-6318

Crime Victims Compensation Bureau
P.O. Box 7951
Madison Wisconsin 53707
(608) 266-6841

Appendix 3

Selected American Bar Association Criminal Justice Standards*

Prosecution Function

- 3-1.4 It is an important function of the prosecutor to seek to reform and improve the administration of criminal justice. Where inadequacies or injustices in the substantive or procedural law come to the prosecutor's attention, he or she should stimulate efforts for remedial action.
- 3-3.1 Investigative function of prosecutor
(c) A prosecutor should not discourage or obstruct communication between prospective witnesses and defense counsel. It is unprofessional conduct for the prosecutor to advise any person or cause any person to be advised to decline to give the defense information which such person has the right to give.
- 3-3.2 (a) Relations with prospective witnesses
It is unprofessional conduct to compensate a witness, other than an expert, for giving testimony, but it is not improper to reimburse an ordinary witness for the reasonable expenses of attendance upon court, attendance for dispositions pursuant to statute or court rule, or attendance for pretrial interviews. Payments to a witness may be for transportation and loss of income, provided there is no attempt to conceal the fact of reimbursement.
- 3-5.1 Calendar control
. . . The prosecuting attorney should be required to file with the court as a public record periodic reports setting forth the reasons for delay as to each case for which the prosecuting attorney has not requested trial within a prescribed time following charge . . .
- 3-5.2 Courtroom decorum
(a) The prosecutor should support the authority of the court and the dignity of the trial courtroom by strict adherence to the rules of decorum and by manifesting an attitude of professional respect toward the judge, opposing counsel, witnesses, defendants, jurors, and others in the courtroom.
- 3-5.7 Examination of witnesses
(a) The interrogation of all witnesses should be conducted fairly, objectively, and with due regard for the dignity and legitimate privacy of the witness, and without seeking to intimidate or humiliate the witness unnecessarily . . .

*American Bar Association Standards for Criminal Justice (2d ed. 1980, Little, Brown and Company).

(b) . . . A prosecutor should not use the power of cross-examination to discredit or undermine a witness if the prosecutor knows the witness is testifying truthfully.

Defense Function

4-7.1 Courtroom decorum

(a) As an officer of the court the lawyer should support the authority of the court and the dignity of the trial courtroom by strict adherence to the rules of decorum and by manifesting the attitude of professional respect toward the judge, opposing counsel, witnesses, jurors and others in the courtroom.

4-7.7 Examination of witnesses (See 3-5.7, above)

Trial Judge

6-2.2 Duty to protect witnesses

(a) The trial judge should permit full and proper examination and cross-examination of witnesses, but should require the interrogation to be conducted fairly and objectively and with due regard for the dignity and legitimate privacy of the witnesses and without seeking to humiliate them.

Pretrial Release

10-5.2 Conditions on release

Upon a finding that release on the defendant's own recognizance is unwarranted, the judicial officer should impose the least onerous of the following conditions necessary to assure the defendant's appearance in court, protect the safety of the community, and prevent intimidation of witnesses and interference with the orderly administration of justice:

...
(v) impose any other reasonable restriction designed to assure the defendant's appearance, protect the safety of the community, and prevent intimidation of witnesses and interference with the orderly administration of justice.

10-5.9 Pretrial detention

(a) A judicial officer shall convene a pretrial detention hearing whenever:

...
(2) the prosecutor, a law enforcement officer, a representative of the pretrial service agency alleges, in a verified complaint, that a released defendant is likely to flee, threaten or intimidate witnesses or court personnel, or constitute a danger to the community.

CONTINUED

1 OF 2

(b) At the conclusion of the pretrial detention hearing, the judicial officer should issue an order of detention if the officer finds in writing by clear and convincing evidence that:

(1) the defendant, for the purpose of interfering with or obstructing or attempting to interfere with or obstruct justice, has threatened, injured, or intimidated or attempted to threaten, injure, or intimidate any prospective witness, juror, prosecutor or court officer . . .

Speedy Trial

12-1.2 Calendar control
(See 3-5.1, above)

12-1.3 Continuances

The court should grant a continuance only upon a showing of good cause and only for so long as is necessary, taking into account not only the request or consent of the prosecution or defense, but also the public interest in prompt disposition of the case.

Pleas of Guilty

14-1.1 Pleading by defendant; alternative

(b) A defendant may plead nolo contendere only with the consent of the court. Such a plea should be accepted by the court only after due consideration of the views of the parties and the victims and the interest of the public in the effective administration of justice.

14-1.8 It is proper for the court to grant charge and sentence concessions to defendants who enter a plea of guilty or nolo contendere when consistent with the protection of the public, the gravity of the offense, and the needs of the defendant, and when there is substantial evidence that

(iii) the defendant, by making public trial unnecessary, has demonstrated genuine consideration for the victims of his or her criminal activity, by desiring either to make restitution or to prevent unseemly public scrutiny or embarrassment to them . . .

14-3.1 Propriety of the plea discussions and plea agreements

(d) The prosecuting attorney should make every effort to remain advised of the attitudes and sentiments of victims and law enforcement officials before reaching a plea agreement.

14-3.3 Responsibilities of the judge

(d) Whenever the judge is presented with a plea agreement or consents to a conference in order to listen to the parties concerning charge or sentence concessions, the court may require or allow any person, including the defendant, the alleged victim, and others, to appear or testify.

Sentencing Alternatives and Procedures

18-2.4 Intermediate sanctions

(a) Attention should be directed to the development of a range of sentencing alternatives which provide an intermediate sanction between supervised probation on the one hand and commitment to a total custody institution on the other. Examples of the types of dispositions which might be authorized are:

...
(iii) a required term of community service, such as in a hospital or other public or charitable facility, or a sentence involving the performance of restitutionary services.

18-2.7 Fines

(c) In determining whether to impose a fine and its amount, the court should consider:

...
(iii) the extent to which payment of a fine will interfere with the ability of the defendant to make any ordered restitution or reparation to the victim of the crime . . .

18-3.2 Sentencing principles: general criteria

(b) The sentencing court should impose a sentence within the applicable guideline range unless it finds that a substantial aggravating or mitigating circumstance exists which was not adequately taken into consideration in the formulation of such guideline and which in balance justifies the imposition of a greater or lesser sentence

...
(ii) In the case of aggravating factors:

...
(B) a victim was particularly vulnerable;

(C) a victim was treated with particular cruelty for which the individual offender should be held responsible;

(D) the offense involved injury or threatened violence to others committed to gratify the offender's desire for pleasure or excitement; or

(E) the degree of bodily harm caused, attempted, or foreseen by the offender was substantially greater than average for the given crime.

Appendix 4

Law Enforcement Assistance Administration FY 1979 Victim Witness Strategy Grantees

Non-Governmental Agencies

National Council of Jewish Women
St. Louis Section
6820 Delmar
St. Louis, Missouri 63124
314/725-4267

National District Attorneys Asso.
666 North Lake Shore Drive
Chicago, Illinois 60611
312/944-4610

Criminal Justice Section
American Bar Association
1800 M Street, N.W.
Washington, D.C. 20036
202/331-2260

National Council on Crime and
Delinquency
AFL/CIO Labor Participation
Department
1706 R Street, NW
Washington, DC 20036
202/234-8904

National Organization of Victim
Assistance
700 N. Fairfax
Alexandria, VA 22313
202/638-4848

National Citizen Participation
Council
1620 Eye Street, NW
Washington, DC 20006
202/293-7351

Statewide Network Program

New Jersey Division of Criminal
Justice
13 Roszel Road
Princeton, New Jersey 08540
609/452-9500

Office of Criminal Justice Planning
7171 Bowling Drive
Sacramento, California 95823
916/322-0147

New York State Crime Victims
Compensation Board
270 Broadway
New York, New York 10007
212/488-5080

Illinois Organization of Victim
Assistance
2452 W. Belmont Avenue
Chicago, Illinois 60618
312/443-3479

Office of Commonwealth's Attorney
Jefferson County Hall of Justice
Louisville, Kentucky 40202
502/581-6040

Bureau of Criminal Justice Assistance
Department of Community Affairs
Carlton Building, Room 530
Tallahassee, Florida 32301
904/488-6001

Connecticut Justice Commission
75 Elm Street
Hartford, Connecticut 06115
203/566-3020

Massachusetts District Attorneys
Association
Superior Court House
Barnstable, Massachusetts 02630
617/362-2511

Integrated Police/Prosecution Witness Assistance Programs

**Pierce County Prosecuting Attorney's
Office**
930 Tacoma Avenue South
Tacoma, Washington 98402
206/593-4843

**Ventura County District Attorney's
Office**
800 South Victoria Avenue
Ventura, California 93009
805/654-2505

**Department of Law
Criminal Division
Pouch KC**
Juneau, Alaska 99811
FTS Operator: 399-0150
907/465-3428

Travis County Attorney's Office
P.O. Box 1748
Austin, Texas 78767
512/478-3415

San Francisco District Attorney
880 Bryant Street
San Francisco, California 94103
415/553-1006

**Fourth Judicial District Attorney's
Office**
20 East Vermijo Street
Colorado Springs, Colorado 80903
303/475-8500

Springfield Police Department
830 Boonville
Springfield, Missouri 65802
417/862-2222

Essex County District Attorney
32 Federal Street
Salem, Massachusetts 01970
617/745-6610

Hamden Police Department
2900 Dixwell Avenue
Hamden, Connecticut 06518
203/281-4221

Appendix 5

Members, Victims Committee American Bar Association Criminal Justice Section

Chairperson: Judge Eric Younger*
County Courthouse
110 N. Grand Avenue
Los Angeles, California 90012
213/974-6235

Vice-Chairperson: Frank Carrington
Crime Victims Legal Advocacy Institute
4530 Oceanfront Drive
Virginia Beach, Virginia 23451
804/428-6547

Members:

Judge Phrasel L. Shelton*
Municipal Court of San Mateo
County
Central Judicial District
San Mateo, California 94401
415/573-2222

Howard Yares, Director*
Victim Counseling Service
Philadelphia Bar Association
1339 Chestnut Street
Widener Building
Philadelphia, Pennsylvania 19107
215/686-5686

Judge Susan Borman
Wayne County Circuit Court
600 Randolph
Detroit, Michigan 48216
313/224-5243

Judge Frank Marullo
2700 Tulane Avenue
Criminal Courts Building
New Orleans, Louisiana 70118
504/586-4038

E. Michael McCann
District Attorney of Milwaukee
831 West State Street
Milwaukee, Wisconsin 53233
414/278-4646

Daniel J. O'Brien
345 West Second Street
Dayton, Ohio 45402
513/228-6001

Richard Brzeczek*
Superintendent
Department of Police
1121 South State Street
Chicago, Illinois 60605
312/744-4000

Arthur A. Marshall, Jr.
States Attorney
Prince George's County
Court House
Upper Marlboro, Maryland 20870
301/952-3500

*Also a member of the Advisory Board, Victim Witness Assistance Project

Herbert Ellingwood
Caldwell & Toms
812 J Street
Sacramento, California 95814
916/447-6571

David S. Levine
Waysman and Levine
555 California Street
Suite 3180
San Francisco, California 94104
415/398-5533

C. Anthony Friloux, Jr.
806 Main Street, Suite 900
Houston, Texas 77002
713/237-8404

Carl Vergari
District Attorney
Westchester County Courthouse
111 Grove Street
White Plains, New York 10601
914/682-2727

Ruth Nordenbrook*
Office of U.S. Attorney
225 Cadman Plaza East
Brooklyn, New York 11201
212/330-7030

Appendix 6

Bar Association Victim Witness Assistance Program Model Budgets

Following are five model budgets, each pertaining to a separate hypothetical bar association victim witness assistance project. Their purpose is to illustrate several of the countless potential programs and to highlight the kinds of expenses which should be anticipated by any bar considering involvement in this area.

In preparing project budgets, it is important to bear in mind that the actual amounts for the specific items in these models will vary considerably from project to project depending on a number of factors, including:

- Jurisdiction in which the project is undertaken (attorney and other personnel costs are especially subject to fluctuation from area to area; all hourly professional rates which appear in these model budgets are arbitrary);
- Type of project (i.e., number and specific services rendered);
- Scope of project (i.e., extent of audience);
- Already-existing resources or "in kind" contributions; and
- Availability of volunteers.

Bar Association Victim Witness Assistance Program Model Budget No. 1

Project Description: Bar Association Court Reception and Escort Service to provide information to victims and witnesses arriving at court and to escort victims and witnesses to appropriate courtrooms, etc. This type of project, undertaken in cooperation with the local bench, would utilize bar volunteers as supervisors and would rely heavily upon student and senior citizen volunteers.

Equipment, supplies and personnel requirements: Information booth or reception center room located in foyer of the circuit court; informational brochures explaining simple facts about court appearances, the criminal justice system, etc.; electronic paging devices for volunteer escorts; supervisory staff and volunteers; furniture and normal office operating supplies.

Target Jurisdiction: County of 500,000 persons with a 15 person circuit bench and a county bar of 600 lawyers.

* * * * *

BUDGET

PERSONNEL:

Three Lawyer Managers (on a rotating basis) at 6 hours per week each × \$50 per hour = \$900 × 52 weeks =	\$46,800
Fifteen volunteers per day providing 105 volunteer hours of coverage daily with each volunteer receiving a \$7 per day transportation and lunch allowance = \$525 per week × 52 weeks for a total annual volunteer allowance of =	\$27,300

EQUIPMENT:

Information booth, reception desk and other necessary reception equipment	\$3,000
Phones—3 lines	\$1,200
Paging equipment for volunteers	\$2,250

SUPPLIES:

Victim Witness Assistance Informational Brochures (brief, informative and attractive brochure, 25,000 copies) Estimated commercial production costs for 10 page brochure professionally designed and printed =	\$5,000
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Total Estimated Project Costs:	\$85,500
Less pro bono contribution of lawyers hours	-\$46,800
Actual Project Cost	\$38,700*

*Actual costs could be reduced by donations of equipment, printing services and paging equipment to reduce real dollar outlays to phone service and a reasonable daily allowance for volunteer staff. This type of program could therefore be operated for less than \$30,000 per annum.

Bar Association Victim Witness Assistance Program Model Budget No. 2

Project Description: Bar Association Student Work-Study Victim Witness Assistance Corps to provide a cadre of student workers to assist police, prosecutors, public defenders and courts in providing additional services to crime victims and witnesses.

Equipment, Supplies and personnel requirements: In cooperation with local Boards of Education plan a program where students would receive civics or government credit for a fixed number of hours per week of service in criminal justice and legal institutions as Victim Witness Assistance Aides. Program would require a "curriculum development effort", lawyer managers or team leaders, an indoctrination course for student participants, a modest travel allowance for the students and a modest identifying "uniform"—i.e. blazers with an appropriate insignia.

Target Jurisdiction: Urban or suburban political subdivision with a population of 150,000 or more, a high school population of 16,000 or more, and multiple criminal justice agencies.

* * * * *

BUDGET

PERSONNEL:

Five Lawyer Managers × 2 hours per week at \$50 × 30 weeks =	\$ 15,000
Five Police Managers × 2 hours per week at \$10 × 30 weeks =	\$ 3,000
Five Prosecution Managers × 2 hours per week at \$25 × 30 wks =	\$ 7,500
Five Public Defender Managers × 2 hours per week at \$25 × 30 weeks =	\$ 7,500
Five Court Managers × 2 hours per week at \$30 × 30 weeks =	\$ 9,000
Five Hundred Student Aides per semester × 6 hours per week per student × 30 weeks = 90,000 student volunteer hours.	
Average transportation allowance of \$2 per day =	\$ 60,000
Student blazers—500 × \$50 =	\$ 25,000

EQUIPMENT:

None	\$ 0
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SUPPLIES AND OPERATING EXPENSES:

Modest costs to be borne by participating agencies	\$ 0
--	------

Total Estimated Project Costs:	\$127,000
Less pro bono contributions of bar, police, prosecution, public defender and courts	-\$ 42,000
Less contributions of blazers from civic associations, retailers or other donors	-\$ 25,000
Actual Project Cost	\$ 60,000*

*Actual costs could be reduced by *real* transportation allowance figures in differing jurisdictions, by student volunteer agreement to forego allowances, by transportation authority to issue "passes" etc.

Bar Association Victim Witness Assistance Program Model Budget No. 3

Project Description: Bar Association Victim Witness Assistance Telephone (Tape Recorded) Information Project to provide a series of informative tape recordings for crime victims and witnesses.

Equipment, supplies and personnel requirements: Depending upon the sophistication desired, the bar, after drafting a series of proposed taped messages, could hire professional announcers, seek pro bono services from the local media or cut the tapes itself. In essence this project would require a series of tape recorded messages and an electronic system which would enable callers to identify and hear the tapes requested. Tape series could include brief, one minute messages about: where to seek emergency help for child or spouse abuse problems; who to contact about victim or witness intimidation problems; guidelines for court appearances; addresses, phone numbers and persons to contact about various shelter facilities and the like.

Target jurisdiction: Any jurisdiction

* * * * *

BUDGET

PERSONNEL:

Bar Association Victim Witness Assistance Committee drafting of tapes—50 hours of drafting, editing at average \$50 per hour =	\$ 2,500
Taping a series of recorded messages (estimated cost of \$300 per tape × estimated 10 tapes) =	\$ 3,000

EQUIPMENT AND SUPPLIES:

Tapes, recording equipment, etc. (rental)	\$ 250
Telephone system to electronically transfer calls, position and play tapes, etc.	<u>\$12,000</u>

Total Estimated Project Cost	\$17,750
Less pro bono contribution of bar member time	-\$ 2,500
Less professional service fees for taping	<u>-\$ 3,000</u>

Actual Project Cost	\$12,250*
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*This cost will vary depending upon the extent of the service provided, the number of tapes used, the number of dedicated phone lines required, etc.

Bar Association Victim Witness Assistance Program Model Budget No. 4

Project Description: Victim Witness Case Progress Mail Notification Systems to keep victims and witnesses informed as to significant developments in criminal cases. This kind of program—with the developmental assistance of the bar—could be operated by prosecutors, public defenders and courts. All that is required is a sophisticated system of "lay language" form letters and administrative coordination.

Equipment, supplies and personnel requirements: Existing equipment and personnel (both professional and clerical) would be employed by participating prosecution, public defender and court agencies to operate this program: no new personnel would be needed. The program would require the development and reproduction of substantial numbers of specific form letters.

Target Jurisdiction: Any jurisdiction

* * * * *

BUDGET

PERSONNEL:

Committee of bar members, prosecutors, public defenders and judges and/or court administrators to draft series of form notification letters: two representatives from each agency:

Bar representatives 40 hours × \$50 per hour =	\$2,000
Prosecution representatives 40 hours × \$25 per hour =	\$1,000
Public Defender representatives 40 hours × \$25 per hour =	\$1,000
Judicial representatives 40 hours × \$25 per hour =	\$1,000
Contributed professional and clerical time to administer program within participating agency (time involved would depend upon case volume)	\$ 0

EQUIPMENT:

No new equipment would be required \$ 0

SUPPLIES AND POSTAGE:

Stationery and envelopes (for 10,000 notification letters)	\$ 400
Postage (for 10,000 notifications)	\$1,500

REPRODUCTION:

Photocopy costs for 10,000 copies (estimated at 2¢ per copy based on high volume reproduction)	\$ 200
--	--------

Total Estimated Project Cost:	\$7,100
Less pro bono contribution of bar, judiciary etc	-\$5,000
Actual Project Cost	\$2,100

Bar Association Victim Witness Assistance Program Model Budget No. 5

Project Description: Bar Association Victim Referral Service to provide personal and telephonic referral services.

Equipment, supplies and personnel requirements: This project would require the compilation and publication of a crime victim Social Service Referral Manual, the staffing and operation of a Victim Referral Service Center and the operation of a telephonic referral service.

Target jurisdiction: Any jurisdiction

* * * * *

BUDGET

PERSONNEL:

Members of Bar Victim Witness Assistance Committee to compile and prepare a Social Service Referral Manual estimated 200 hours at \$50 per hour =	\$10,000
Referral Center Staff—Volunteer lawyers, law students and trained lay volunteers to staff center 40 hours per week with average three volunteers on duty	0

EQUIPMENT AND SUPPLIES:

Equipment and supplies to be contributed by bar utilizing existing bar offices	0
--	---

TELEPHONE AND POSTAGE

Phone	\$ 1,200
Postage	\$500

PRINTING AND DISTRIBUTION OF SOCIAL SERVICE REFERRAL MANUAL

Optional—costs could range from \$500 to \$5,000 for printing the social service referral manual for distribution to local police, prosecution and judicial agencies	\$500
--	-------

SERVICE ADVERTISING

Newspaper ads, television and radio announcements, etc.	\$1,000
---	---------

Total estimated project costs	\$13,200
Less pro bono contribution of bar members	-\$10,000

Actual project cost	\$ 3,200*
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*This estimate will vary depending upon decisions to print and distribute a victim social service referral manual, decisions to mount extensive advertising, etc.

Appendix 7

**Directory of
Victim Witness Assistance Programs
Statewide**

Agency: _____ Tel. No. _____

Address: _____

Director: _____ Hours: _____

Services Provided: _____

Comment: _____

Agency: _____ Tel. No. _____

Address: _____

Director: _____ Hours: _____

Services Provided: _____

Comment: _____

Agency: _____ Tel. No. _____

Address: _____

Director: _____ Hours: _____

Services Provided: _____

Comment: _____

Agency: _____ Tel. No. _____

Address: _____

Director: _____ Hours: _____

Services Provided: _____

Comment: _____

Agency: _____ Tel. No. _____

Address: _____

Director: _____ Hours: _____

Services Provided: _____

Comment: _____

Agency: _____ Tel. No. _____

Address: _____

Director: _____ Hours: _____

Services Provided: _____

Comment: _____

Local

Agency: _____ Tel. No. _____

Address: _____

Director: _____ Hours: _____

Services Provided: _____

Comment: _____

Agency: _____ Tel. No. _____

Address: _____

Director: _____ Hours: _____

Services Provided: _____

Comment: _____

Agency: _____ Tel. No. _____

Address: _____

Director: _____ Hours: _____

Services Provided: _____

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Agency: _____ Tel. No. _____

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Director: _____ Hours: _____

Services Provided: _____

Comment: _____

Agency: _____ Tel. No. _____

Address: _____

Director: _____ Hours: _____

Services Provided: _____

Comment: _____



**American Bar Association
Washington, D.C.**

END