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Federal Law Enforcement Training Center

The Crime Victim and Witness Assistance Training Program

Participant's Handbook

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gram of the Federal Law Enforcement Training Center
with support from the Office of Justice Programs,
Office For Victims of Crime

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Department of the Treasury

THE CRIME VICTIM AND WITNESS ASSISTANCE
TRAINING PROGRAM

A PARTICIPANT HANDBOOK

PREPARED BY

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FOR

THE FEDERAL LAW ENFORCEMENT
TRAINING CENTER

1988

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SECTION ONE

Historical Background

Summary

This section will provide the student with an historical perspective concerning the role of the victim and witness in the criminal justice system. This section helps to demonstrate the erosion of victim rights during the 18th, 19th and early 20th centuries. The student will examine the events that led to the development of our current efforts to more effectively serve the victims and witnesses of crime. Further, the student will explore the history of "The Victim's Movement", with an emphasis on the work of the President's Task Force on Victims of Crime and a look at the progress made in the five years following that report.

In outline, readings in this section consider:

- The Role of the Victim in the Criminal Justice System - An Historical Perspective**
- The Struggle for Justice - A History of the Victim's Movement**
- The President's Task Force on Victims of Crime: A Summary**
- The President's Task Force - Five Years Later**

THE ROLE OF THE VICTIM IN THE CRIMINAL JUSTICE SYSTEM
AN HISTORICAL PERSPECTIVE

Throughout most of history, the victim has been the single most important element of our systems of justice. In pre-feudal times a victim arrested, prosecuted and sometimes executed the criminal who victimized him. Later, as feudal lords offered protection for their vassals, a magistrate consulted with the victim to determine how justice could be achieved. In 1066 William of Normandy stopped Home Rule and seized for the State certain peace-keeping tasks. His son, Henry I tightened the State's grip, making certain crimes a breach of the King's peace - punishable by the State. Then in the 1100's King Henry II of England decreed that all crimes be considered acts against the Crown rather than against the victims. Gradually the criminal justice system focusing on the state and the criminal, cut the victim out of the picture.

This changing practice later carried over into the American colonies where private prosecutions, the charge and prosecution of criminals by individuals, gave way to governmental police forces and the subsequent shunting aside of victims. Victims' rights were further overshadowed by the United States Constitution and the Bill of Rights where the rights of the accused were strongly enumerated and guaranteed; yet victims of crime were not even mentioned. As the various states adopted constitutions, they followed suit. The protection of individuals by the states became the rejection of the victim as an active participant in the criminal justice system.

As William Mc Donald notes in his study of the role of the victim in 18th and 19th century America : " Although revenge on the part of the victim surely was a major factor behind these private prosecutions, so too was a system of restitution by the offender to the victim which was an accepted goal of the system." Colonists preferred their system of private policing, prosecution and restitution. They feared the excessive state power and tyranny associated with the systems of

public policing and prosecution prevalent in many countries at that time. This fear was reflected in the careful crafting of the Constitution and Bill of Rights which placed strict limits on the potential excesses of the government, while emphasizing a strong package of rights for persons accused of violating the law.

During the same period, the American System of Criminal Justice was dramatically influenced and ultimately altered by the work, " Essay on Crimes and Punishment " (1764) by Enlightenment writer Cesare Beccaria who :

- Defined crime as the harm to society, the social contract and "the state".
- Maintained that punishment should be proportionate to the harm done to society.
- Defined the primary purpose of the justice system to be service to the interest of society.
- Felt the system should be designed to deter the criminal and others from committing similar acts.

The concept of "rehabilitation" emerged, and has served as our principal "justice model" for the past 200 years. Under this model, the victim was no longer a direct participant in the administration of justice. Victims had become simply a secondary part of the proceeding, another witness necessary to prove " the state's case". The 18th and 19th centuries saw the emergence of public policing, public prosecutors, laws regarding the nature of sentencing and the development of correctional institutions. A decline in the use of restitution occurred as we embraced rehabilitation as the ultimate goal of our "system".

It was not until the 1930's that critics of how victims were treated would begin to surface. The National Commission on Law Observance and Enforcement...commonly known as the Wickersham Commission would note..." Hardships suffered by victims may affect in some cases the victim's whole attitude toward the administration of public justice". This theme was continued by Supreme Court Justice Benjamin N. Cordoza who in 1934 when commenting on Snyder v. Massachusetts stated, "Justice, though due to the accused, is due the accuser also. The concept of fairness must not be strained till it is a filament. WE ARE TO KEEP THE BALANCE TRUE".

Early reformers knew intuitively that the administration of justice would ultimately suffer if victims and witnesses of crime were dissatisfied with the treatment they received from their system of justice. A system they believed was designed

not only to punish those who violated the law but should also protect those who obey it.

The contemporary concept of victim rights would not surface until the late 1960's. This concept was spurred by the interest of both grassroots advocates, many of whom were themselves victims, and government appointed commissions and task forces. The struggle to obtain "justice for all... even the victim", began.

THE STRUGGLE FOR JUSTICE - A HISTORY OF THE VICTIMS MOVEMENT

The crime victims movement in the United States has been in existence for approximately 15 years. Its origins are essentially grass-roots perhaps its strongest characteristic is self-help. The movement grew out of the extraordinary rise in the rate of crime which occurred during the 60's. The increase in crime during this period spurred public outrage which in turn led to a series of presidential studies which focused on the problem of crime in America. From these studies came the development of our nation's first victimization surveys and finally the creation of the Law Enforcement Assistance Administration (LEAA), an organization that would serve to fund some of the first victim service programs in the mid 70's.

Of the first three victim assistance programs established in the county - all in 1972 - two were rape crisis centers. By 1974, the women's movement began to remove the shroud of secrecy hiding another major social problem - spouse abuse - by opening the first battered women's shelters. In the early years the founders of sexual assault and domestic violence programs led a grass-roots assault not only against criminal violence but also on the criminal justice system that at times seemed to ignore, if not condone, the violence.

During the same period, some of the criminal justice leadership recognized that the maltreatment of victims and witnesses caused prosecutions to fail as a result of "witness noncooperation." What followed was the infusion of federal funds into prosecutors based victim/witness units starting in 1974. Other criminal justice agencies began programs during the mid 70's. The Indianapolis and Ft. Lauderdale Police Departments became the nation's first law enforcement agencies to provide assistance to victims of crime. During this period there was the ebb and flow of federal funding. By 1976, federal interest in victims and corresponding funding had diminished.

Then, in late 1978, a new federal initiative for victim/witness programs was announced. For the next year and a half, local programs were developed. But almost as soon as the new flow of funds began to make a difference, the funding was halted again as Congress decided to disband LEAA in 1979. A period of turmoil and conflict followed affecting victim and witness advocates, domestic violence shelters, rape crisis centers and other community crisis programs. The struggle

was often centered around competition for the limited funding dollar.

It was during this same period 77-81, that former victims would become publicly active and vocal. Victims became proponents of mutual support and peer counseling. Parents of Murdered Children, a national self-help group formed by Robert and Charolotte Hullinger after the murder of their daughter Lisa, is an example of the victim activism of the period. Others like Mothers Against Drunk Driving founder Candy Lightner, John Walsh, Edith Sorgan, Roberta Roper and Bob Preston would turn to the political arena, demanding and achieving a host of public policy reforms. These victims talked of being ignored, isolated and stigmatized by their families, friends, and neighbors, as well as being victimized for a second time by an insensitive and uncaring criminal justice system.

The voices of victims of crime have lead to an extraordinary growth in public awareness concerning victim issues which has been the hallmark of this decade. This increased awareness led to the first presidential task force on victims of crime and on a federal level to the passage of The Victim Witness Protection Act of 1982 and the Victim of Crime Act of 1984.

Out of this struggle for justice has come the development of over 5000 programs across our country designed to assist victims and witnesses of crime. Of no less importance are efforts to permit victims and witnesses to again become active participants in the administration of American justice. The most ambitious agenda remains for victims and victim advocates, that being to make the final recommendation of the President's Task Force on Victims of Crime a reality. That recommendation reads as follows -

We propose that the Sixth Amendment to the Constitution of the United States be modified to read as follows:

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted by the witnesses against him; to have compulsory process for obtaining witnesses in his favor and to have the Assistance of Counsel for his defense. **Likewise, the victim, in every criminal prosecution shall have the right to be present and to be heard at all critical stages of judicial**

proceedings.

Currently no less than five states have proposed just such a change and the voters of at least one state will have the opportunity to voice their support for victim rights.

- And the struggle for justice continues!

THE PRESIDENT'S TASK FORCE ON VICTIMS OF CRIME

In 1982, the first presidential task force was established to examine the treatment of victims and witnesses of crime in this country. After traveling to six cities, hearing from more than 1,000 victims, witnesses and victim advocates and analyzing hundreds of studies of victimization, the Task Force presented its report in January of 1983. The Task Force presented 68 recommendations for law enforcement and prosecutors, judges and parole officials, public policy makers and private sector leaders, therapists and educators, physicians and ministers. The recommendations centered around three basic themes:

- Victim needs
- Victim crisis
- Victim involvement in the justice system

To date, roughly 75 percent of the recommendations have been acted upon; led in part by a new Office for Victims of Crime created within the Justice Department to assist in the implementation of Task Force reforms. The final Task Force report has served as a blueprint for action, influencing criminal justice professionals and public policy leaders on both the Federal and State level. The result has been a dramatic record of progress summarized in the section entitled: THE PRESIDENT'S TASK FORCE - FIVE YEARS LATER

The original recommendations for law enforcement have been reprinted and are included as part of the materials that follow. As a Federal law enforcement professional it is important that you understand the role which the Task Force played in the development of the following areas:

- Expansion of laws to protect the interests of victims and witnesses of crime
- Expansion of crime compensation programs
- Further expansion of victim assistance programs
- Development of specialized training designed to bring about improved treatment of victims and witnesses
- Increased protection - victims and witnesses

RECOMMENDATIONS FOR LAW ENFORCEMENT

The police are often the first on the scene; it is to them, the first source of protection, that the victim first turns. They should be mindful that, in fulfilling their obligation to solve the crime and apprehend the criminal, they must also treat victims with the attention due them. The manner in which police officers treat a victim affects not only his immediate and long-term ability to deal with the event but also his willingness to assist in a prosecution. The foundation of all interactions between police and victims should be the knowledge that it is these citizens whom the officer has sworn to serve. These recommendations are meant to ensure better treatment of victims by police.

1. Police departments should develop and implement training programs to ensure that police officers are:
 - a. Sensitive to the needs of victims; and
 - b. Informed, knowledgeable, and supportive of the existing local services and programs for victims.
2. Police departments should establish procedures for the prompt photographing and return of property to victims (with the prosecutor's approval).
3. Police departments should establish procedures to ensure that victims of violent crime are periodically informed of the status and closing of investigations.
4. Police officers should give a high priority to investigating witnesses' reports of threats or intimidation and should forward these reports to the prosecutor.

COMMENTARY

Police Recommendation 1:

Police departments should develop and implement training programs to ensure that police officers are:

- a. Sensitive to the needs of victims; and
- b. Informed, knowledgeable, and supportive of the existing local services and programs for victims.

The Task Force wishes to note that many victims spoke very highly of the officers with whom they had contact. As a group, policemen were the most warmly praised of any profes-

sionals in the system. Unfortunately, however, some victims were treated in a manner that was insensitive, uncaring, and even hostile. Training can help eliminate this latter experience.

Victims' responses and needs vary, especially if the crime was violent. Some victims may suffer a severe reaction immediately following the criminal offense; others may experience a delayed reaction, hours or even days after the offense. In either case, the severity of the individual victim's reaction will be proportional to his sense of violation or loss. Police officers should understand what triggers crisis reactions in victims in order to assist them. Officers should know that a burglary victim might have a very severe reaction, although he never saw the perpetrator, while an armed robbery victim who was actually confronted by the assailant might have a lesser reaction.

Police officers generally see victims and their families immediately after the crime, when they are most in need of help. The officers' response to these persons often has a major effect on how swiftly and how well the victim recovers. Police officers who respond quickly after the report is made, who listen attentively, and who show concern for the victim's plight will greatly reassure the victim and help him overcome his sense of fear and helplessness.

But good intentions on the part of police officers are not sufficient to assist every crime victim properly. Police officers need special training in "psychological first aid" to help minimize victims' stress. Victims may experience depression, dependence, anger, a feeling of loss of control, guilt, or uncontrollable fear, either alone or in combination, and the response by the police must be both appropriate and sensitive.

Police officers also need special training to help them deal with crime victims. Victims become very frustrated when officers are not sensitive to their special circumstances. Police officers should not show skepticism because a rape victim is not badly bruised and bleeding or a child did not immediately report a molestation. Officers should be taught that elderly persons with sensory impairments are not necessarily senile and that blind persons can successfully assist the prosecution in criminal cases. They must be taught that family members of homicide victims need very much to be consulted and kept informed during the investigation, regardless of their ability to provide direct information.

Police officers must also learn to cope with their own job-related stress, so that they can effectively interact with victims. Police officers are exposed to human misery daily, and may become very frustrated by their inability to resolve it fully. In order to compensate, some officers tend to minimize the problems of crime victims. This method of coping may help the officer in the short term, but it does a profound disservice to victims and will ultimately make the officer a less effective investigator.

The individual officer cannot be expected to meet each victim's needs personally and immediately, but he can serve as the essential link between the victim and the services that are available. This capacity is particularly important because officers see most victims, not just those whose cases result in arrest and prosecution. Some departments have cooperated with local churches or other volunteer groups who are available on call for counseling, death notification, and victim referral. In some departments, the police chaplain has been the motivating force behind this cooperation.

Responsiveness to the needs of crime victims must be a departmental priority; as such, it should be an important part of every police officer's regular performance evaluation. A police department that rewards officers who assist crime victims either directly or through referral to a victim services program will greatly assist those who have been victimized. In addition it can also help to reinforce the police officer's normal inclination to assist those victims who are in need of help.

Police Recommendation 2:

Police departments should establish procedures for the prompt photographing and return of property to victims, with prosecutor approval.

The victim's property belongs to the victim, not the system. Victims repeatedly tell of property ranging from family heirlooms to an invalid's television set being held for months or years while the case moves slowly through the courts; in some cases, property has been mislaid or lost. Victims should have their property restored to them at the earliest date possible without compromising the prosecution of the case.

Police should cooperate with local prosecutors to develop procedures in which the prosecutor evaluates the evidentiary value of the property, notifies the defense, arranges inspec-

tion if necessary, then releases these items to their owners as expeditiously as possible (see Prosecutor Recommendation 6. Judicial Recommendation 9).

Departments must devise a system that will notify the victim or the victim's family when property has been recovered, where it is being held, when it can be reclaimed, and what documents must be presented when a claim is made. Before items are returned they should be photographed in a manner that clearly identifies the property and will allow substitution of the photograph for the item itself as an exhibit in court.

Police Recommendation 3:

Police departments should establish procedures to ensure that victims of violent crime are periodically informed of the status and closing of investigations.

A major complaint voiced by victims is that they never hear anything about the case after the initial report. Further, when they attempt to acquire information by contacting the police, they are not able to give the names or numbers required for the police to locate the appropriate file. Even when an investigation is closed without an arrest, the victim should be so informed. Victims will appreciate police candor even when the case is unresolved.

Every victim of violent crime should be provided with certain basic information shortly after the crime is reported, either by mail or other satisfactory process. They should be told the name and badge number or department serial number of the investigator in charge of the case and how to reach him, the case number or other department data retrieval information, and when the case has been reassigned to a different investigator or branch within the department.

Many victims live in a state of fear, believing their assailant is still at large. When a suspect is apprehended, victims should be informed at the earliest possible time. This information can reduce their anxiety substantially. However, officers must take care not to compromise the reliability of a lineup or other investigatory phase by providing this information too soon; when in doubt, officers should consult with the prosecutor.

Police Recommendation 4:

Police officers should give a high priority to investigation of reports by witnesses of threats or intimidation and for-

ward these reports to the prosecution.

Many victims and witnesses are threatened or intimidated by defendants and others. Fearing for themselves and their families, these citizens may move, begin to carry weapons, become prisoners in their homes, or decide not to follow through with the prosecution.

Although it may be difficult to ascertain who is responsible for these attempts at intimidation, officers must treat such threats and the citizens who are their targets with sensitivity and concern. It can be almost as frustrating for the officer as for the threatened person to realize the limitations inherent in this area. However, victims should not simply be told that nothing can be done; officers should respond to an investigate these reports.

In addition, some affirmative steps can be taken to protect those who are harassed and to give them the sense that the system is responsive to their problems (see also Prosecutors Recommendation 3). For example, traces or recordings can be arranged; the local precinct or beat supervisors can be alerted and the officers responsible for the victim's neighborhood can increase the frequency with which they patrol near the victim's home. Officers can inspect locks and instruct victims on how to improve their security measures. If victims decide to move officers can ensure that they are not harassed or followed to their new residences. In jurisdictions in which investigating officers make recommendations as to bail, these attempts at intimidation should be brought to the attention of the court.

A formal report should be made every time a citizen complains of intimidation and the victim should be referred to a victim/witness service provider. The filing of a formal report is important; it encourages the victim to remain in contact with law enforcement, and it documents a pattern of intimidation that can be proved at trial. If prosecutors are to succeed in opposing motions for release or reduction of bond or if reports of harassment are to be relied on in sentencing, each threatening contact must be reported by the victim and documented in a formal report.

THE PRESIDENT'S TASK FORCE ON VICTIMS OF CRIME
FIVE YEARS LATER

Adapted from " The President's Task Force - Four Years
Later "

After learning of the heartaches suffered by the brave victims who testified before the President's Task Force on Victims of Crime, Task Force members perceived three fundamental needs of victims that a justice system which truly serves the innocent must be compelled to meet :

1. Victims must be protected
2. The justice system must be responsive to victims'needs
3. Victims need assistance to overcome the burdens imposed by crime.

The 68 recommendations, fashioned by the Task Force are in many ways a recognition that if we cannot find a cure for crime, we should at least strive to repair the lives it shatters.

Little by little , in living rooms and churches, in police departments and courtrooms, in city halls and statehouses, in the United States Congress and the White House, the voices of victims are being heard. In the finest tradition of grass roots advocacy, a ground swell of support for victims has grown over the years.

State Legislation

When the President's Task Force began its inquiry, only four states had enacted a comprehensive set of laws to protect the interests of victims in the court process. Five years later, the change in State laws for victims has been metamorphic. At this time, 43 states have enacted what are commonly referred to as "victim bills of rights".Among the rights generally included are:

- Requiring a victim impact statement at sentencing
- Victim allocution at sentencing
- Permitting victim input into key prosecutorial decisions
- Open parole hearings and notification of parole release
- The abolishment of parole
- Victim notification of crucial developments in a case

The confidentiality of victim counseling records
Nondisclosure of victim addresses and phone numbers
Prompt return of property used as evidence
Protection from intimidation and harassment
Court mandated restitution
Victim compensation

Federal Legislation

The Federal Victim Witness Protection Act of 1982 guaranteed a host of rights and protections , similar to those described above , for victims of Federal crime.

The Comprehensive Crime Control Act of 1984 brought about major reforms throughout the Federal criminal justice system. From tightening bail procedures to strengthening the government's hand against organized crime , this law comprising some 23 chapters , marked the most sweeping change in the history of the Federal justice system. Among its provisions were the Victims of Crime Act , which authorized the disbursement of up to \$100 million to the States for the enhancement of both victim compensation and local victim assistance programs. To date , more than \$200 million has been deposited into the fund: approximately \$68.3 million in FY'85 and approximately \$62.5 million in FY'86. It is expected that deposits in FY'87 will be near \$77 million.

The Justice Assistance Act , another provision of the massive Federal law , has provided additional funding " through the Bureau of Justice Assistance [BJA] - to further improve State and local efforts in important areas such as crime prevention and crime victim assistance. The Justice Assistance Act also continues the National Institute of Justice , which has established victims of crime as a major research priority. More than 30 of the Institute's studies regarding victims have been conducted during the last five years. In addition , the Bureau of Justice Statistics will continue to conduct the annual National Crime Survey and to publish regular reports on key criminal justice issues ranging from the number of victims who do not report crime to the average time served by convicted criminals.

Victim Compensation Funds

A recent review of information provided by the States indicates that there has been significant growth in victim compensation programs and increases in payments to crime victims since VOCA was enacted. For example , at least 8 states have

eliminated residency requirements from their programs and at least 11 states have passed legislation permitting or expanding benefits for mental health counseling. Forty-four states currently have some form of victim compensation.

Victim Services

The purpose of providing Federal funding to the States for victim assistance is to enhance or expand effective services to crime victims. Services are primarily community-based, tailored to the needs of the area they serve. In its first funding cycle, over \$41 million was made available to the States to support State and local assistance programs. Fifty-four States and Territories received grants resulting, to date, in more than 1,500 subgrants to individual State and local direct service programs. Further analysis of the first year reports indicates that 94 percent of the funds went to enhance or expand existing programs; 6 percent was used to initiate new programs. The vast majority of these subgrant awards [84 percent] were to community-based, nonprofit organizations.

The Federal Program

The Victims of Crime Act of 1984, as originally enacted, authorized the Attorney General to utilize up to 5 percent of the Fund to provide services to victims of Federal crime. A number of budget reduction measures and amendments to VOCA have greatly reduced the funds available for this purpose. As a result approximately \$2.1 million has been available through 1987. To date, the Office for Victims of Crime has obligated \$720,000 for training and technical and \$57,000 for services. The victim services funds have provided support for training of Federal Victim/Witness Coordinators and for emergency services which were necessary as a result of three major multiple child victim molestation cases under Federal jurisdiction; one in Maryland and two on Indian reservations in Arizona.

The Office for Victims of Crime recently developed a revised program plan for Federal victims. Activities are being planned for three broad areas:

1. Training for the Federal Victim/Witness Coordinators, Assistant U.S. Attorneys, Bureau of Prisons officials, U.S. Probation officers and other Federal law enforcement personnel in providing services to victims, working with local service providers, and collecting compensation fees and restitution.

2. Preparing, publishing, and disseminating handbooks

and other materials for use by Federal Victim/Witness Coordinators , U.S. Attorneys , Federal Bureau of Investigation , Drug Enforcement Agents , Bureau of Indian Affairs law enforcement and other Federal law enforcement officials.

3. Arranging for services to Federal crime victims such as transportation to court , short-term child care services , temporary housing in emergencies [i.e. arson on an Indian reservation] and emergency counseling or crisis intervention services when no other source of support is available.

Law Enforcement

The Office for Victims of Crime is working with national law enforcement organizations in educating their members to the needs of victims . For example , The National Sheriffs' Association has launched a massive crime victim education project which has already reached 90 percent of our nation's counties. This project has also served to showcase innovative approaches to victim services , including the training of neighborhood watch volunteers in order that they can help provide much needed services to victims in their community.

In order to meet the special needs of crime victims living in our inner cities , the National Organization of Black Law Enforcement Executives has developed programs in eight urban areas. As an example of this effort , the Baltimore Police Department now includes services to victims in officer personnel evaluations. The National Association of State Directors of Law Enforcement Training has developed a model curriculum already in use in law enforcement academies in several states . Finally, the Commission on the Accreditation of Law Enforcement Agencies is working with major law enforcement organizations to build standards for victim services into the accreditation process.

Prosecutors

The growth in prosecutor-based victim/witness programs has been tremendous. The Office for Victims of Crime is working with the National District Attorneys' Association and the National College of District Attorneys to train prosecutors and improve the treatment of crime victims served by their offices . NDAA has recently identified the premier programs which will serve as models for other offices in developing or improving their programs.

The Crime Victims Advisory Committee of the National Association of Attorneys General , the group representing the

chief law enforcement official in each State , has pledged its support in this endeavor and is working with the Criminal Justice Section of the American Bar Association in promoting the passage of model legislation requiring prosecutors to include the interest of victims throughout the criminal justice process.

Judges

In November of 1983, two judges from every State heard the message of victim rights in face-to-face meetings with victims at a landmark conference sponsored by the National Institute of Justice and the National Judicial College in November of 1983. Since this meeting , the judges have unanimously adopted a " Statement of Recommended Judicial Practices " ; have held more than 20 similar conferences in their home states and have supported the development by the National Judges College of courses based on the special needs of victims of crime.

Parole Boards

The Comprehensive Crime Control Act of 1984 eliminated parole from the Federal system, and eight States have also elected to abolish it. Since the Task Force hearings, 13 States and the Federal government have passed laws to open parole board hearings to crime victims and the public, for a total of 19 States

Actions by Other Organizations

Hospitals

The National Symposium on Sexual Assault, held in 1984, marked the first time that medical professionals at a national level were brought together with individuals from criminal justice and social services to discuss improve treatment of victims of sexual assault. Following this symposium, projects were funded to improve emergency room procedures for handling sexual assault victims, develop a standardized rape kit, and finally to design a model medical based victim treatment center.

The Ministry

To educate religious leaders on the responsibility to minister to victims as well as to offenders, Justice Department representatives have arranged meetings with inner-city church

stewards, national evangelical leaders, and seminary instructors. The Prison Fellowship program, traditionally geared to serving inmates, is now discussing with criminals the effects of the crime on the victim. In addition, the National Sheriffs' Association is working with an organization of law enforcement chaplains to better aid victims. An organized core of Federal prison chaplains were an important part of efforts by the Bureau of Prison to assist crime victims families during the take-overs by inmates in 1987.

The Bar

The American Bar Association House of Delegates has adopted guidelines for the treatment of victims of crime. A victim services training curriculum developed by the National Organization for Victim Assistance (NOVA) encourages Bar concern, particularly by prosecutors. The National District Attorneys' Association and the National College of District Attorneys has urged their members to become more active within their local associations in order to obtain more support on behalf of victim rights.

Schools

The Office of Juvenile Justice and Delinquency Prevention has incorporated into its Law-Related Education Program, taught in schools throughout the country, new materials emphasizing the meaning of being a victim of crime. Since 1983, The National Crime Prevention Council has directed its important messages to children and teens alike with its successful "Mc Gruff" campaign. Mc Gruff's message for 1986 alerted teens to the fact that they are more likely than adults to become victims of crime.

The Mental Health Community

Since the President's Task Force, the mental health community has taken significant steps to fill the previous vacuum of services available to victims. The American Psychological and Psychiatric Associations have both sponsored task forces to examine how well the mental health community has met the needs of crime victims. The National Institute of Mental Health has encouraged further research on the psychological impact of crime. The Victims of Crime Act underscores the importance of mental health treatment and requires that States compensate some victim counseling expenses in order to receive Federal funds.

The Private Sector

Crime is costly to victims, to their families, and to their employers. Several projects have recently been developed which encourage businesses to assist victimized employees. The National Institute of Justice sponsored a project with "Laws At Work" which created victim services in ten major corporations. For example, CBS Inc., expanded its employee assistance service to include referral and education for employees stricken by crime. GTE involved its retirees in a community outreach program to assist senior citizen crime victims.

SECTION TWO

The Federal Response

This section introduces the student to the three chief documents that govern their official response to victims of crime: The Victim Witness Protection Act of 1982, The Victims of Crime Act of 1984 and Sample Departmental Guidelines drafted as a result of the 1982 Act.

PUBLIC LAW 97-291—OCT. 12, 1982

**VICTIM AND WITNESS PROTECTION
ACT OF 1982**

Public Law 97-291
97th Congress

An Act

Oct. 12, 1982
[S. 2420]

To provide additional protections and assistance to victims and witnesses in Federal cases.

Victim and
Witness
Protection Act of
1982.
18 USC 1501
note.
18 USC 1512
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Victim and Witness Protection Act of 1982".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress finds and declares that:

(1) Without the cooperation of victims and witnesses, the criminal justice system would cease to function; yet with few exceptions these individuals are either ignored by the criminal justice system or simply used as tools to identify and punish offenders.

(2) All too often the victim of a serious crime is forced to suffer physical, psychological, or financial hardship first as a result of the criminal act and then as a result of contact with a criminal justice system unresponsive to the real needs of such victim.

(3) Although the majority of serious crimes falls under the jurisdiction of State and local law enforcement agencies, the Federal Government, and in particular the Attorney General, has an important leadership role to assume in ensuring that victims of crime, whether at the Federal, State, or local level, are given proper treatment by agencies administering the criminal justice system.

(4) Under current law, law enforcement agencies must have cooperation from a victim of crime and yet neither the agencies nor the legal system can offer adequate protection or assistance when the victim, as a result of such cooperation, is threatened or intimidated.

(5) While the defendant is provided with counsel who can explain both the criminal justice process and the rights of the defendant, the victim or witness has no counterpart and is usually not even notified when the defendant is released on bail, the case is dismissed, a plea to a lesser charge is accepted, or a court date is changed.

(6) The victim and witness who cooperate with the prosecutor often find that the transportation, parking facilities, and child care services at the court are unsatisfactory and they must often share the pretrial waiting room with the defendant or his family and friends.

(7) The victim may lose valuable property to a criminal only to lose it again for long periods of time to Federal law enforcement officials, until the trial and sometimes and appeals are over; many times that property is damaged or lost, which is particularly stressful for the elderly or poor.

(b) The Congress declares that the purposes of this Act are—

- (1) to enhance and protect the necessary role of crime victims and witnesses in the criminal justice process;
- (2) to ensure that the Federal Government does all that is possible within limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of the defendant; and
- (3) to provide a model for legislation for State and local governments.

VICTIM IMPACT STATEMENT

SEC. 3. Paragraph (2) of rule 32(c) of the Federal Rules of Criminal Procedure is amended to read as follows:

18 USC app.

“(2) REPORT.—The presentence report shall contain—

- “(A) any prior criminal record of the defendant;
- “(B) a statement of the circumstances of the commission of the offense and circumstances affecting the defendant’s behavior;
- “(C) information concerning any harm, including financial, social, psychological, and physical harm, done to or loss suffered by any victim of the offense; and
- “(D) any other information that may aid the court in sentencing, including the restitution needs of any victim of the offense.”

PROTECTION OF VICTIMS AND WITNESSES FROM INTIMIDATION

SEC. 4. (a) Chapter 73 of title 18 of the United States Code is amended by adding at the end the following new sections:

“§ 1512. Tampering with a witness, victim, or an informant

18 USC 1512.

“(a) Whoever knowingly uses intimidation or physical force, or threatens another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—

- “(1) influence the testimony of any person in an official proceeding;
- “(2) cause or induce any person to—
 - “(A) withhold testimony, or withhold a record, document, or other object, from an official proceeding;
 - “(B) alter, destroy, mutilate, or conceal an object with intent to impair the object’s integrity or availability for use in an official proceeding;
 - “(C) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or
 - “(D) be absent from an official proceeding to which such person has been summoned by legal process; or
- “(3) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

shall be fined not more than \$250,000 or imprisoned not more than ten years, or both.

Penalty.

“(b) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

- “(1) attending or testifying in an official proceeding;

"(2) reporting to a law enforcement officer or judge of the United States the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings;

"(3) arresting or seeking the arrest of another person in connection with a Federal offense; or

"(4) causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or assisting in such prosecution or proceeding;

Penalty.

or attempts to do so, shall be fined not more than \$25,000 or imprisoned not more than one year, or both.

"(c) In a prosecution for an offense under this section, it is an affirmative defense, as to which the defendant has the burden of proof by a preponderance of the evidence, that the conduct consisted solely of lawful conduct and that the defendant's sole intention was to encourage, induce, or cause the other person to testify truthfully.

"(d) For the purposes of this section—

"(1) an official proceeding need not be pending or about to be instituted at the time of the offense; and

"(2) the testimony, or the record, document, or other object need not be admissible in evidence or free of a claim of privilege.

"(e) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance—

"(1) that the official proceeding before a judge, court, magistrate, grand jury, or government agency is before a judge or court of the United States, a United States magistrate, a bankruptcy judge, a Federal grand jury, or a Federal Government agency; or

"(2) that the judge is a judge of the United States or that the law enforcement officer is an officer or employee of the Federal Government or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant.

"(f) There is extraterritorial Federal jurisdiction over an offense under this section.

18 USC 1513.

"§ 1513. Retaliating against a witness, victim, or an informant

"(a) Whoever knowingly engages in any conduct and thereby causes bodily injury to another person or damages the tangible property of another person, or threatens to do so, with intent to retaliate against any person for—

"(1) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

"(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, parole, or release pending judicial proceedings given by a person to a law enforcement officer;

Penalty.

or attempts to do so, shall be fined not more than \$250,000 or imprisoned not more than ten years, or both.

"(b) There is extraterritorial Federal jurisdiction over an offense under this section.

18 USC 1514.

"§ 1514. Civil action to restrain harassment of a victim or witness

"(a)(1) A United States district court, upon application of the attorney for the Government, shall issue a temporary restraining

order prohibiting harassment of a victim or witness in a Federal criminal case if the court finds, from specific facts shown by affidavit or by verified complaint, that there are reasonable grounds to believe that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

"(2)(A) A temporary restraining order may be issued under this section without written or oral notice to the adverse party or such party's attorney in a civil action under this section if the court finds, upon written certification of facts by the attorney for the Government, that such notice should not be required and that there is a reasonable probability that the Government will prevail on the merits.

Temporary
restraining
order.

"(B) A temporary restraining order issued without notice under this section shall be endorsed with the date and hour of issuance and be filed forthwith in the office of the clerk of the court issuing the order.

"(C) A temporary restraining order issued under this section shall expire at such time, not to exceed 10 days from issuance, as the court directs; the court, for good cause shown before expiration of such order, may extend the expiration date of the order for up to 10 days or for such longer period agreed to by the adverse party.

Expiration.

"(D) When a temporary restraining order is issued without notice, the motion for a protective order shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character, and when such motion comes on for hearing, if the attorney for the Government does not proceed with the application for a protective order, the court shall dissolve the temporary restraining order.

Protective order.

"(E) If on two days notice to the attorney for the Government or on such shorter notice as the court may prescribe, the adverse party appears and moves to dissolve or modify the temporary restraining order, the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

"(F) A temporary restraining order shall set forth the reasons for the issuance of such order, be specific in terms, and describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

"(b)(1) A United States district court, upon motion of the attorney for the Government, shall issue a protective order prohibiting harassment of a victim or witness in a Federal criminal case if the court, after a hearing, finds by a preponderance of the evidence that harassment of an identified victim or witness in a Federal criminal case exists or that such order is necessary to prevent and restrain an offense under section 1512 of this title, other than an offense consisting of misleading conduct, or under section 1513 of this title.

"(2) At the hearing referred to in paragraph (1) of this subsection, any adverse party named in the complaint shall have the right to present evidence and cross-examine witnesses.

"(3) A protective order shall set forth the reasons for the issuance of such order, be specific in terms, describe in reasonable detail (and not by reference to the complaint or other document) the act or acts being restrained.

"(4) The court shall set the duration of effect of the protective order for such period as the court determines necessary to prevent

harassment of the victim or witness but in no case for a period in excess of three years from the date of such order's issuance. The attorney for the Government may, at any time within ninety days before the expiration of such order, apply for a new protective order under this section.

Definitions.

“(c) As used in this section—

“(1) the term ‘harassment’ means a course of conduct directed at a specific person that—

“(A) causes substantial emotional distress in such person;

and

“(B) serves no legitimate purpose; and

“(2) the term ‘course of conduct’ means a series of acts over a period of time, however short, indicating a continuity of purpose.

18 USC 1515.

“§ 1515. Definitions for certain provisions

“As used in sections 1512 and 1513 of this title and in this section—

“(1) the term ‘official proceeding’ means—

“(A) a proceeding before a judge or court of the United States, a United States magistrate, a bankruptcy judge, or a Federal grand jury;

“(B) a proceeding before the Congress; or

“(C) a proceeding before a Federal Government agency which is authorized by law;

“(2) the term ‘physical force’ means physical action against another, and includes confinement;

“(3) the term ‘misleading conduct’ means—

“(A) knowingly making a false statement;

“(B) intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact, and thereby creating a false impression by such statement;

“(C) with intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity;

“(D) with intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect; or

“(E) knowingly using a trick, scheme, or device with intent to mislead;

“(4) the term ‘law enforcement officer’ means an officer or employee of the Federal Government, or a person authorized to act for or on behalf of the Federal Government or serving the Federal Government as an adviser or consultant—

“(A) authorized under law to engage in or supervise the prevention, detection, investigation, or prosecution of an offense; or

“(B) serving as a probation or pretrial services officer under this title; and

“(5) the term ‘bodily injury’ means—

“(A) a cut, abrasion, bruise, burn, or disfigurement;

“(B) physical pain;

“(C) illness;

“(D) impairment of the function of a bodily member, organ, or mental faculty; or

“(E) any other injury to the body, no matter how temporary.”

(b) The table of sections at the beginning of chapter 73 of title 18 of the United States Code is amended—

(1) so that the item relating to section 1503 reads as follows:

“1503. Influencing or injuring officer or juror generally.”; and

(2) by adding at the end the following:

“1512. Tampering with a witness, victim, or an informant.

“1513. Retaliating against a witness, victim, or an informant.

“1514. Civil action to restrain harassment of a victim or witness.

“1515. Definitions for certain provisions.”

(c) Section 1503 of title 18 of the United States Code is amended—

(1) in the heading of such section, by striking out “, juror or witness” and inserting in lieu thereof “or juror”;

(2) by striking out “witness” the first place it appears after “impede any” and all that follows through “or any grand” and inserting “grand” in lieu thereof; and

(3) by striking out “injures any party or witness” and all that follows through “matter pending therein, or”.

(d) section 1505 of title 18 of the United States Code is amended by—

(1) striking out paragraphs (1) and (2);

(2) striking out “such” the first place it appears in the fourth paragraph and inserting in lieu thereof “any pending”;

(3) striking out “such” the second place it appears in the fourth paragraph and inserting in lieu thereof “any”; and

(4) striking out “such inquiry” in the fourth paragraph and inserting in lieu thereof “any inquiry”.

(e) Section 1510(a) of title 18 of the United States Code is amended—

(1) by striking out the comma immediately following “bribery” and all that follows through “thereof”;

(2) by striking out the semicolon immediately following “investigator” the first place it appears and all that follows through “Shall be fined” and inserting “shall be fined” in lieu thereof.

RESTITUTION

SEC. 5. (a) Chapter 227 of title 18 of the United States Code is amended by adding at the end the following:

“§ 3579. Order of restitution

18 USC 3579.

“(a)(1) The court, when sentencing a defendant convicted of an offense under this title or under subsection (h), (i), (j), or (n) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. 1472), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to any victim of the offense.

“(2) If the court does not order restitution, or orders only partial restitution, under this section, the court shall state on the record the reasons therefor.

“(b) The order may require that such defendant—

“(1) in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense—

“(A) return the property to the owner of the property or someone designated by the owner; or

Property.

“(B) if return of the property under subparagraph (A) is impossible, impractical, or inadequate, pay an amount equal to the greater of—

“(i) the value of the property on the date of the damage, loss, or destruction, or

“(ii) the value of the property on the date of sentencing,

less the value (as of the date the property is returned) of any part of the property that is returned;

Bodily injury.

“(2) in the case of an offense resulting in bodily injury to a victim—

“(A) pay an amount equal to the cost of necessary medical and related professional services and devices relating to physical, psychiatric, and psychological care, including non-medical care and treatment rendered in accordance with a method of healing recognized by the law of the place of treatment;

“(B) pay an amount equal to the cost of necessary physical and occupational therapy and rehabilitation; and

“(C) reimburse the victim for income lost by such victim as a result of such offense;

Death.

“(3) in the case of an offense resulting in bodily injury also results in the death of a victim, pay an amount equal to the cost of necessary funeral and related services; and

“(4) in any case, if the victim (or if the victim is deceased, the victim’s estate) consents, make restitution in services in lieu of money, or make restitution to a person or organization designated by the victim or the estate.

Victim’s estate.

“(c) If the Court decides to order restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim’s estate.

“(d) The court shall impose an order of restitution to the extent that such order is as fair as possible to the victim and the imposition of such order will not unduly complicate or prolong the sentencing process.

Restitution.

“(e)(1) The court shall not impose restitution with respect to a loss for which the victim has received or is to receive compensation, except that the court may, in the interest of justice, order restitution to any person who has compensated the victim for such loss to the extent that such person paid the compensation. An order of restitution shall require that all restitution to victims under such order be made before any restitution to any other person under such order is made.

“(2) Any amount paid to a victim under an order of restitution shall be set off against any amount later recovered as compensatory damages by such victim in—

“(A) any Federal civil proceeding; and

“(B) any State civil proceeding, to the extent provided by the law of that State.

Time period.

“(f)(1) The court may require that such defendant make restitution under this section within a specified period or in specified installments.

“(2) The end of such period or the last such installment shall not be later than—

“(A) the end of the period of probation, if probation is ordered;

“(B) five years after the end of the term of imprisonment imposed, if the court does not order probation; and

“(C) five years after the date of sentencing in any other case.
“(3) If not otherwise provided by the court under this subsection, restitution shall be made immediately.

“(g) If such defendant is placed on probation or paroled under this title, any restitution ordered under this section shall be a condition of such probation or parole. The court may revoke probation and the Parole Commission may revoke parole if the defendant fails to comply with such order. In determining whether to revoke probation or parole, the court or Parole Commission shall consider the defendant’s employment status, earning ability, financial resources, the willfulness of the defendant’s failure to pay, and any other special circumstances that may have a bearing on the defendant’s ability to pay.

Probation or parole.

“(h) An order of restitution may be enforced by the United States or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

Enforcement.

“§ 3580. Procedure for issuing order of restitution

18 USC 3580.

“(a) The court, in determining whether to order restitution under section 3579 of this title and the amount of such restitution, shall consider the amount of the loss sustained by any victim as a result of the offense, the financial resources of the defendant, the financial needs and earning ability of the defendant and the defendant’s dependents, and such other factors as the court deems appropriate.

“(b) The court may order the probation service of the court to obtain information pertaining to the factors set forth in subsection (a) of this section. The probation service of the court shall include the information collected in the report of presentence investigation or in a separate report, as the court directs.

“(c) The court shall disclose to both the defendant and the attorney for the Government all portions of the presentence or other report pertaining to the matters described in subsection (a) of this section.

Information disclosure.

“(d) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense shall be on the attorney for the Government. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and such defendant’s dependents shall be on the defendant. The burden of demonstrating such other matters as the court deems appropriate shall be upon the party designated by the court as justice requires.

“(e) A conviction of a defendant for an offense involving the act giving rise to restitution under this section shall estop the defendant from denying the essential allegations of that offense in any subsequent Federal civil proceeding or State civil proceeding, to the extent consistent with State law, brought by the victim.”

(b) The table of sections at the beginning of chapter 227 of title 18 of the United States Code is amended by adding at the end the following new items:

- “3579. Nature of order of restitution.
- “3580. Procedure for issuing order of restitution.”

**FEDERAL GUIDELINES FOR FAIR TREATMENT OF CRIME VICTIMS AND
WITNESSES IN THE CRIMINAL JUSTICE SYSTEM**

18 USC 1512
note.

SEC. 6. (a) Within two hundred and seventy days after the date of enactment of this Act, the Attorney General shall develop and implement guidelines for the Department of Justice consistent with the purposes of this Act. In preparing the guidelines the Attorney General shall consider the following objectives:

(1) **SERVICES TO VICTIMS OF CRIME.**—Law enforcement personnel should ensure that victims routinely receive emergency social and medical services as soon as possible and are given information on the following—

(A) availability of crime victim compensation (where applicable);

(B) community-based victim treatment programs;

(C) the role of the victim in the criminal justice process, including what they can expect from the system as well as what the system expects from them; and

(D) stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained.

(2) **NOTIFICATION OF AVAILABILITY OF PROTECTION.**—A victim or witness should routinely receive information on steps that law enforcement officers and attorneys for the Government can take to protect victims and witnesses from intimidation.

(3) **SCHEDULING CHANGES.**—All victims and witnesses who have been scheduled to attend criminal justice proceedings should either be notified as soon as possible of any scheduling changes which will affect their appearances or have available a system for alerting witnesses promptly by telephone or otherwise.

(4) **PROMPT NOTIFICATION TO VICTIMS OF MAJOR SERIOUS CRIMES.**—Victims, witnesses, relatives of those victims and witnesses who are minors, and relatives of homicide victims should, if such persons provide the appropriate official with a current address and telephone number, receive prompt advance notification, if possible, of judicial proceedings relating to their case, including—

(A) the arrest of an accused;

(B) the initial appearance of an accused before a judicial officer;

(C) the release of the accused pending judicial proceedings; and

(D) proceedings in the prosecution of the accused (including entry of a plea of guilty, trial, sentencing, and, where a term of imprisonment is imposed, the release of the accused from such imprisonment).

(5) **CONSULTATION WITH VICTIM.**—The victim of a serious crime, or in the case of a minor child or a homicide, the family of the victim, should be consulted by the attorney for the Government in order to obtain the views of the victim or family about the disposition of any Federal criminal case brought as a result of such crime, including the views of the victim or family about—

(A) dismissal;

(B) release of the accused pending judicial proceedings;

(C) plea negotiations; and

(D) pretrial diversion program.

(6) SEPARATE WAITING AREA.—Victims and other prosecution witnesses should be provided prior to court appearance a waiting area that is separate from all other witnesses.

(7) PROPERTY RETURN.—Law enforcement agencies and prosecutor should promptly return victim's property held for evidentiary purposes unless there is a compelling law enforcement reason for retaining it.

(8) NOTIFICATION TO EMPLOYER.—A victim or witness who so requests should be assisted by law enforcement agencies and attorneys for the Government in informing employers that the need for victim and witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work. A victim or witness who, as a direct result of a crime or of cooperation with law enforcement agencies or attorneys for the Government, is subjected to serious financial strain, should be assisted by such agencies and attorneys in explaining to creditors the reason for such serious financial strain.

(9) TRAINING BY FEDERAL LAW ENFORCEMENT TRAINING FACILITIES.—Victim assistance education and training should be offered to persons taking courses at Federal law enforcement training facilities and attorneys for the Government so that victims may be promptly, properly, and completely assisted.

(10) GENERAL VICTIM ASSISTANCE.—The guidelines should also ensure that any other important assistance to victims and witnesses, such as the adoption of transportation, parking, and translator services for victims in court be provided.

(b) Nothing in this title shall be construed as creating a cause of action against the United States.

Restriction.

(c) The Attorney General shall assure that all Federal law enforcement agencies outside of the Department of Justice adopt guidelines consistent with subsection (a) of this section.

PROFIT BY A CRIMINAL FROM SALE OF HIS STORY

SEC. 7. Within one year after the date of enactment of this Act, the Attorney General shall report to Congress regarding any laws that are necessary to ensure that no Federal felon derives any profit from the sale of the recollections, thoughts, and feelings of such felon with regards to the offense committed by the felon until any victim of the offense receives restitution.

Report to Congress. 18 USC 3579 note.

BAIL

SEC. 8. Section 3146(a) of chapter 207 of title 18, United States Code, is amended in the matter preceding paragraph (1)—

(1) by inserting after "judicial officer," the second place it appears the following: "subject to the condition that such person not commit an offense under section 1503, 1512, or 1513 of this title,"; and

(2) by inserting after "impose" the following: "a condition of release that such person not commit an offense under section 1503, 1512, or 1513 of this title and impose".

EFFECTIVE DATE

18 USC 1512
note.

SEC. 9. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b)(1) The amendment made by section 2 of this Act shall apply to presentence reports ordered to be made on or after March 1, 1983.

(2) The amendments made by section 5 of this Act shall apply with respect to offenses occurring on or after January 1, 1983.

Approved October 12, 1982.

LEGISLATIVE HISTORY—S. 2420 (H.R. 7191)

**SENATE REPORT No. 97-532 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 123 (1982):**

Sept. 14, considered and passed Senate.

Sept. 30, H.R. 7191 considered and passed House; S. 2420, amended, passed in lieu.

Oct. 1, Senate concurred in House amendments with an amendment; House concurred in Senate amendment.

THE VICTIMS OF CRIME ACT OF 1984
Public Law 98-473, Title II, Chapter XIV
42 U.S.C. 10601, et seq.

As Amended By

THE CHILDREN'S JUSTICE AND ASSISTANCE ACT OF 1986
Public Law 99-401
100 Statutes at Large 903

AN ACT

To provide financial assistance to the States for the purpose of compensating and otherwise assisting victims of crime, and to provide funds to the Department of Justice for the purpose of assisting victims of Federal crime.

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Sec. 1403	Crime Victim Compensation
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Related Statutory Provisions

18 U.S.C. 3013	Special Assessment on Convicted Persons
18 U.S.C. 3681	Special Forfeiture of Collateral Profits of Crime
18 U.S.C. 3682	Notice to Victims of Order of Special Forfeiture
APPENDIX	- Legislative History

CHAPTER XIV-VICTIM COMPENSATION AND ASSISTANCE

CRIME VICTIMS FUND

42 U.S.C. 10601

Sec. 1402.(a) There is created in the Treasury a separate account to be known as the Crime Victims Fund (hereinafter in this chapter referred to as the "Fund").

(b) Except as limited by subsection (c), there shall be deposited in the Fund--

(1) all fines that are collected from persons convicted of offenses against the United States except--

(A) fines available for use by the Secretary of the Treasury pursuant to--

(i) section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)); and

(ii) section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)); and

o

(B) fines to be paid into--

(i) the railroad unemployment insurance account pursuant to the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.);

(ii) the Postal Service Fund pursuant to sections 2601(a)(2) and 2003 of title 39 of the United States Code and for the purposes set forth in section 404(a)(8) of such title 39;

(iii) the navigable waters revolving fund pursuant to section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); and

(iv) county public school funds pursuant to section 3613 of title 18 of the United States Code;

(2) penalty assessments collected under section 3013 of title 18 of the United States Code;

(3) the proceeds of forfeited appearance bonds, bail bonds, and collateral collected under section 3146 of title 18 of the United States Code; and

(4) any money ordered to be paid into the Fund under section 3671(c)(2) of title 18 of the United States Code.

(c)(1) If the total deposited in the Fund during a particular fiscal year reaches the sum of \$110 million, the excess over that sum shall be deposited in the general fund of the Treasury and shall not be a part of the Fund.

(2) No deposits shall be made in the Fund after September 30, 1988.

(d)(1) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this title without fiscal year limitation.

(2) The Fund shall be available as follows:

(A) Of the first \$100,000,000 deposited in the Fund in a particular fiscal year--

(i) 49.5% shall be available for grants under Sec. 1403;

(ii) 45% shall be available for grants under Sec. 1404(a);

(iii) 1% shall be available for grants under Sec. 1404(c); and

(iv) 4.5% shall be available for grants as provided in Sec. 1404A.

(B) The next \$5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants as provided in section 1404A.

(C) Any deposits in the Fund in a particular fiscal year in excess of \$105,500,000 shall be available for grants under section 1404(a).

(e)(1) Except as provided in paragraph (2), any sums awarded as part of a grant under this chapter that remain unspent at the end of a fiscal year in which such grant is made may be expended for the purpose for which such grant is made at any time during the next succeeding fiscal year, at the end of which year any remaining unobligated sums shall be returned to the general fund of the Treasury.

(2) For the purposes of the application of paragraph (1) to any grant under this chapter with respect to fiscal year 1985, there shall be substituted in such paragraph "two succeeding fiscal years" for "succeeding fiscal year" and "which period" for "which year".

(f) As used in this section, the term "offenses against the United States" does not include--

(1) a criminal violation of the Uniform Code of Military Justice (10 U.S.C. 801 et seq.);

(2) an offense against the laws of the District of Columbia; and

(3) an offense triable by an Indian tribal court or Court of Indian Offenses.

CRIME VICTIM COMPENSATION

42 U.S.C. 10602

Sec. 1403.(a)(1) Except as provided in paragraph (2), the Attorney General shall make an annual grant from the Fund to an eligible crime victim compensation program of 35 percent of the amounts awarded during the preceding fiscal year, other than amounts awarded for property damage. A grant under this section shall be used by such program only for awards of compensation.

(2) If the sums available in the Fund for grants under this section are insufficient to provide grants of 35 percent as provided in paragraph (1), the Attorney General shall make, from the sums available, a grant to each eligible crime victim compensation program so that all such programs receive the same percentage of the amounts awarded by such program during the preceding fiscal year, other than amounts awarded for property damage.

(b) A crime victim compensation program is an eligible crime victim compensation program for the purposes of this section if--

(1) such program is operated by a State and offers compensation to victims of crime and survivors of victims of crime for--

(A) medical expenses attributable to a physical injury resulting from compensable crime, including expenses for mental health counseling and care;

(B) loss of wages attributable to a physical injury resulting from a compensable crime; and

(C) funeral expenses attributable to a death resulting from a compensable crime;

(2) such program promotes victim cooperation with the reasonable requests of law enforcement authorities;

(3) such State certifies that grants received under this section will not be used to supplant State funds otherwise available to provide crime victim compensation;

(4) such program, as to compensable crimes occurring within the State, makes compensation awards to victims who are nonresidents of the State on the basis of the same criteria used to make awards to victims who are residents of such State;

(5) such program provides compensation to victims of crimes occurring within such State that would be compensable crimes, but for the fact that such crimes are subject to Federal jurisdiction, on the same basis that such program provides compensation to victims of compensable crimes; and

(6) such program provides such other information and assurances related to the purposes of this section as the Attorney General may reasonably require.

(c) A State crime victim compensation program in effect on the date grants may first be made under this section shall be deemed an eligible crime victim compensation program for the purposes of this section until the day after the close of the first regular session of the legislature of that State that begins after such date.

(d) As used in this section--

(1) the term "property damage" does not include damage to prosthetic devices or dental devices;

(2) the term "medical expenses" includes, to the extent provided under the eligible crime victim compensation program, expenses for dental services and devices and prosthetic devices and for services rendered in accordance with a method of healing recognized by the law of the State;

(3) the term "compensable crime" means a crime the victims of which are eligible for compensation under the eligible crime victim compensation program; and

(4) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and any other possession or territory of the United States.

CRIME VICTIM ASSISTANCE

42 U.S.C. 10603

Sec. 1404.(a)(1) Subject to the availability of money in the Fund, the Attorney General shall make an annual grant from any portion of the Fund made available by Section 1402(d)(2) for the purpose of grants under this subsection, or for the purpose of grants under Section 1403 but not used for that purpose to the chief executive of each State for the financial support of eligible crime victim assistance programs.

(2) Such chief executive shall--

(A) certify that priority shall be given to eligible crime victim assistance programs providing assistance to victims of sexual assault, spousal abuse, or child abuse;

(B) certify that funds awarded to eligible crime victim assistance programs will not be used to supplant State and local funds otherwise available for crime victim assistance; and

(C) provide such other information and assurances related to the purposes of this section as the Attorney General may reasonably require.

(3) The amounts of grants under paragraph (1) shall be--

(A) \$100,000 to each State;
and

(B) that portion of the then remaining available money to each State that results from a distribution among the States on the basis of each State's population in relation to the population of all States.

(4) If the amount available for grants under paragraph (1) is insufficient to provide \$100,000 to each State, the funds available shall be distributed equally among the States.

(b)(1) A victim assistance program is an eligible crime victim assistance program for the purposes of this section if such program--

(A) is operated by a public agency or a nonprofit organization, or a combination of such agencies or organizations or of both such agencies and organizations, and provides services to victims of crime;

(B) demonstrates--

(i) a record of providing effective services to victims of crime and financial support from sources other than the Fund; or

(ii) substantial financial support from sources other than the Fund;

(C) utilizes volunteers in providing such services, unless and to the extent the chief executive determines that compelling reasons exist to waive this requirement;

(D) promotes within the community served coordinated public and private efforts to aid crime victims; and

(E) assists potential recipients in seeking crime victim compensation benefits.

(2) An eligible crime victim assistance program shall expend sums received under subsection (a) only for providing services to victims of crime.

(c)(1) The Attorney General, acting through the Assistant Attorney General for the Office of Justice Programs, shall make grants--

(A) for training and technical assistance services to eligible crime victim assistance programs; and

(B) for the financial support of services to victims of Federal crime by eligible crime victim assistance programs.

(2) Of the amount available for grants under this subsection--

(A) not more than 50% shall be used for grants under Paragraph 1(A); and

(B) not less than 50% shall be used for grants under Paragraph 1(B).

(3) The Assistant Attorney General for the Office of Justice Programs shall--

(A) be responsible for monitoring compliance with guidelines for fair treatment of crime victims and witnesses issues under section 6 of the Victim and Witness Protection Act of 1982 (Public Law 97-291);

(B) consult with the heads of Federal law enforcement agencies that have responsibilities affecting victims of Federal crimes;

(C) coordinate victim services provided by the Federal Government with victim services offered by other public agencies and nonprofit organizations; and

(D) perform such other functions related to the purposes of this title as the Attorney General may assign.

(4) The Attorney General may reimburse other instrumentalities of the Federal Government and contract for the performance of functions authorized under this subsection.

(d) As used in this section--

(1) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and, except for the purposes of paragraphs (3)(A) and (4) of subsection (a) of this section, any other territory or possession of the United States; and

(2) the term "services to victims of crime" includes--

(A) crises intervention services;

(B) providing, in an emergency, transportation to court, short-term child care services, and temporary housing and security measures;

(C) assistance in participating in criminal justice proceedings; and

(D) payment of all reasonable costs for a forensic medical examination of a crime victim, to the extent that such costs are otherwise not reimbursed or paid;

(3) the term "services to victims of Federal crime" means services to victims of crime with respect to Federal crime, and includes--

(A) training of law enforcement personnel in the delivery of services to victims of Federal crime;

(B) preparation, publication, and distribution of information materials--

(i) setting forth services offered to victims of crime; and

(ii) concerning services to victims of Federal crime for use by Federal law enforcement personnel; and

(C) salaries of personnel who provide services to victims of crime, to the extent that such personnel provide such services;

(4) the term "crises intervention services" means counseling to provide emotional support in crises arising from the occurrence of crime; and

(5) the term "chief executive" includes a person designated by a chief executive to perform the functions of the chief executive under this section.

CHILD ABUSE PREVENTION AND TREATMENT GRANTS

42 U.S.C. 10603A

Sec. 1404A. Amounts made available by Section 1402(d)(2) for the purposes of this section shall be obligated and expended by the Secretary of Health and Human Services for grants under section 4(d) of the Child Abuse Prevention and Treatment Act. Any portion of an amount which is not obligated by the Secretary by the end of the fiscal year in which funds are made available for allocation, shall be reallocated for award under section 1404(a), except that with respect to funds deposited during fiscal year 1986 and made available for obligation during fiscal year 1987, any unobligated portion of such amount shall remain available for obligation until September 30, 1988.

ADMINISTRATIVE PROVISIONS

42 U.S.C. 10604

Sec. 1407. (a) The Attorney General may establish such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the Attorney General under this chapter and may delegate to any officer or employee of the Department of Justice any such function as the Attorney General

deems appropriate.

(b) Each recipient of sums under this chapter shall keep such records as the Attorney General shall prescribe, including records that fully disclose the amount and disposition by such recipient of such sums, the total cost of the undertaking for which such sums are used, and that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(c) The Attorney General or any duly authorized representative of the Attorney General shall have access, for purpose of audit and examination, to any books, documents, papers, and records of the recipient of sums under this chapter that, in the opinion of the Attorney General or any duly authorized representative of the Attorney General, may be related to the expenditure of funds received under this chapter.

(d) Except as otherwise provided by Federal law, no officer or employee of the Federal Government, and no recipient of sums under this chapter, shall use or reveal any research or statistical information furnished under this chapter by any person and identifiable to any specific private person for any purpose other than the purpose for which such information was obtained in accordance with this chapter. Such information, and any copy of such information, shall be immune from legal process and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceeding.

(e) No person shall on the ground of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under this chapter.

(f) If, after reasonable notice and opportunity for a hearing on the record, the Attorney General finds that a State has failed to comply substantially with any provision of this chapter or a rule, regulation, guideline, or procedure issued under this chapter, or an application submitted in accordance with this chapter or the provisions of any other applicable law, the Attorney General shall--

- (1) terminate payments to such State;
- (2) suspend payments to such State until the Attorney General is satisfied that such noncompliance has ended; or
- (3) take such other action as the Attorney General deems appropriate.

(g) The Attorney General shall, no later than December 31, 1987, report to the President and to the Congress on the revenue derived from each source described in section 1402 and on the effectiveness of the activities supported under this chapter. The Attorney General may include in such report recommendations for legislation to improve this chapter.

RELATED STATUTORY PROVISIONS

SPECIAL ASSESSMENT ON CONVICTED PERSONS

18 U.S.C. 3013

(a) The court shall assess on any person convicted of an offense against the United States--

(1) in the case of a misdemeanor--

(A) the amount of \$25 if the defendant is an individual; and

(B) the amount of \$100 if the defendant is a person other than an individual; and

(2) in the case of a felony--

(A) the amount of \$50 if the defendant is an individual; and

(B) the amount of \$200 if the defendant is a person other than an individual.

(b) Such amount so assessed shall be collected in the manner that fines are collected in criminal cases.

(NOTE: This addition to Title 18 was enacted as section 1405 of the Victims of Crime Act of 1984.)

ORDER OF SPECIAL FORFEITURE

U.S.C. 3681

(a) Upon the motion of the United States attorney made at any time after conviction of a defendant for an offense against the United States resulting in physical harm to an individual, and after notice to any interested party, the court shall, if the court determines that the interest of justice or an order of restitution under this title so requires, order such defendant to forfeit all or any part of proceeds received or to be received by that defendant, or a transferee of that defendant, from a contract relating to a depiction of such crime in a movie, book, newspaper, magazine, radio or television production, or live entertainment of any kind, or an expression of that defendant's thoughts, opinions, or emotions regarding such crime.

(b) An order issued under subsection (a) of this section shall require that the person with whom the defendant contracts pay to the Attorney General any proceeds due the defendant under such contract.

(c)(1) Proceeds paid to the Attorney General under this section shall be retained in escrow in the Crime Victims Fund in the Treasury by the Attorney General for five years after the date of an order under this section, but during that five year period may--

(A) be levied upon to satisfy--

(i) a money judgment rendered by a United States district court in favor of a victim of an offense for which such defendant has been convicted, or a legal representative of such victim; and

(ii) a fine imposed by a court of the United States; and

(B) if ordered by the court in the interest of justice, be used to--

(i) satisfy a money judgment rendered in any court in favor of a victim of any offense for which such defendant has been convicted, or a legal representative of such victim; and

(ii) pay for legal representation of the defendant in matters arising from the offense for which such defendant has been convicted, but no more than 20 percent of the total proceeds may be so used.

(2) The court shall direct the disposition of all such proceeds in the possession of the Attorney General at the end of such five years and may require that all or any part of such proceeds be released from escrow and paid into the Crime Victims Fund in the Treasury.

(d) As used in this section, the term "interested party" includes the defendant and any transferee of proceeds due the defendant under the contract, the person with whom the defendant has contracted, and any person physically harmed as a result of the offense for which the defendant has been convicted.

**NOTICE TO VICTIMS OF ORDER OF SPECIAL
FORFEITURE**

18 U.S.C. 3682

The United States attorney shall, within thirty days after the imposition of an order under this chapter and at such other times as the Attorney General may require, publish in a newspaper of general circulation in the district in which the offense for which a defendant was convicted occurred, a notice that states--

(1) the name of, and other identifying information about, the defendant;

(2) the offense for which the defendant was convicted; and

(3) that the court has ordered a special forfeiture of certain proceeds that may be used to satisfy a judgment obtained against the defendant by a victim of an offense for which the defendant has been convicted.

(NOTE: 18 U.S.C. 3681 and 3682 were enacted originally under the Victims of Crime Act of 1984.)

APPENDIX

LEGISLATIVE HISTORY

VICTIMS OF CRIME ACT OF 1984, Pub. L. 98-473

LEGISLATIVE HISTORY S. 2423

Senate Report No. 98-497 accompanying S.2423, May 14, 1984,
ordered printed May 25, 1984 (Committee on the Judiciary).

- 130 Cong. Rec. S 2632 (daily ed. March 13, 1984).
- 130 Cong. Rec. S 2635 (daily ed. March 13, 1984).
- 130 Cong. Rec. S 2638 (daily ed. March 13, 1984).
- 130 Cong. Rec. S 10531 (daily ed. August 10, 1984).

LEGISLATIVE HISTORY H.R. 5124

- 130 Cong. Rec. H 1608 (daily ed. March 14, 1984).

LEGISLATIVE HISTORY COMPROMISE BILL

- 130 Cong. Rec. H 10720 (daily ed. October 2, 1984).
- 130 Cong. Rec. H 10806 (daily ed. October 2, 1984).
- 130 Cong. Rec. S 13086 (daily ed. October 4, 1984).

LEGISLATIVE HISTORY CONFERENCE BILL

- 130 Cong. Rec. H 11912 (daily ed. October 10, 1984).
- 130 Cong. Rec. H 12083 (daily ed. October 10, 1984).
- 130 Cong. Rec. S 14207 (daily ed. October 11, 1984).

LEGISLATIVE HISTORY H.R. 5124

- 129 Cong. Rec. E 3332 (daily ed. June 30, 1983).

CHILDREN'S JUSTICE ACT OF 1986, Pub.L. 99-401
(Amendments to Victims of Crime Act)

LEGISLATIVE HISTORY S.140

Senate Report No. 99-123 accompanying S.140, July 31, 1985
(Committee on Labor and Human Resources).

- 131 Cong. Rec. S 10673 (daily ed. August 1, 1985).
- 132 Cong. Rec. H 5356 (daily ed. August 4, 1986).

CRIMINAL LAW AND PROCEDURE TECHNICAL AMENDMENTS ACT OF 1986,
Pub. L. 99-646 (Amendments to Victims of Crime Act)

LEGISLATIVE HISTORY S.1236

Senate Report No. 99-278 accompanying S.1236, April 4, 1986
(Committee on the Judiciary).

132 Cong.Rec. S 4470 (daily ed. April 17, 1986).
132 Cong.Rec. H 11290 (daily ed. October 17, 1986).
132 Cong.Rec. S 17303 (daily ed. October 18, 1986).



DEPARTMENT OF THE TREASURY

DIRECTIVE

DATE: December 3, 1987

NUMBER: 55-01

SUBJECT: Victims and Witness Assistance

1. PURPOSE. These guidelines set forth procedures to be followed by Treasury law enforcement elements in responding to the needs of crime victims and witnesses.

2. SCOPE. The provisions of this directive apply to all Treasury law enforcement bureaus and officers engaged in detection, investigation, or prosecution of crimes.

3. BACKGROUND. The Victim and Witness Protection Act of 1982, P.L. 97-921, requires all Federal law enforcement agencies to develop and implement guidelines to:

a. enhance and protect the necessary role of crime victims and witnesses in the criminal justice process;

b. ensure that the Federal government does all that is possible within the limits of available resources to assist victims and witnesses of crime without infringing on the constitutional rights of defendants; and

c. provide a model for legislation for state and local governments.

4. ACTION. Subject to these guidelines, the head of each affected Treasury bureau shall issue further instructions as may be necessary to adopt this directive. Instructions shall be submitted to the Assistant Secretary (Enforcement) for Department approval within 90 days following issuance of this directive.

5. DEFINITIONS.

a. Victims are persons who suffer direct or threatened physical, emotional or financial harm as a result of the commission of a crime. The term "victim" includes the immediate family of either a minor or a homicide victim. Federal departments and agencies shall not be considered "victims" for purposes of this directive.

(1) It should be noted that, because of the nature of criminal cases, it will often be difficult to identify the victim or victims of an offense. In many cases, there will be multiple victims. The provision of assistance in such circumstances must be determined on a case-by-case basis.

(2) In some cases, extension of the full range of victim services would be inappropriate because of the nature of the victim. Sound judgment will, therefore, be required to make intelligent decisions as to the degree of victim services and assistance given. Where there is a reasonable question as to applicability of these guidelines, judgment should lean in the direction of providing assistance.

b. Witnesses are persons who have information or evidence concerning a crime, and provide such information or evidence to a law enforcement agency. Where the witness is a minor, the term "witness" includes an appropriate family member. The term "witness" does not include defense witnesses nor those individuals involved in the crime as perpetrators or accomplices, except where an accomplice has agreed to work with the Government.

c. Serious crimes are defined as criminal offenses that involve personal violence, attempted or threatened personal violence or significant property loss.

d. Bureau includes the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service, the United States Customs Service, the United States Secret Service, and the Office of the Inspector General.

6. RESPONSIBILITY. The responsibility to decide whether the provisions discussed in these guidelines should be applied initially or should be continued in a particular case is shared between that component of the Department of the Treasury responsible for investigating applicable violations of Federal law and the United States Attorney's Office or Department of Justice attorney who is responsible for prosecuting the perpetrators when they are identified. In cases where the United States or the public generally are the victims, victim services will normally be inappropriate (e.g., tax evasion and narcotic trafficking); however, in certain tax cases where victim services may be appropriate, determination should be consistent with paragraph 5.a.(1) of this directive. In virtually all cases there will be witnesses who will be entitled to witness services.

a. For cases in which:

(1) the United States Attorney's Office has become involved, the responsible official shall be the United States Attorney in whose district the prosecution is pending.

(2) a litigating division of the Department of Justice is solely responsible, the responsible official shall be the chief of the section having responsibility for the case. The Department of Justice attorney handling the case shall perform the same duties under these guidelines as are required of an Assistant United States Attorney.

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b. For cases under investigation, but in which the United States Attorney's Office or Department of Justice litigating division has not assumed responsibility, application of these guidelines will be the responsibility of the following Treasury officials with respect to offenses under investigation by the:

(1) Internal Revenue Service, the responsible official shall be the Chief of the Criminal Investigation Division (District Director in streamlined districts) for investigations under the jurisdiction of the Criminal Investigation function; and the Regional Inspector for investigations under the jurisdiction of the Internal Security Division;

(2) Bureaus of Alcohol, Tobacco and Firearms, Customs or Secret Service, the responsible official shall be the Special Agent in Charge of the office having primary responsibility for the investigation; and

(3) Office of the Inspector General, the responsible official shall be the designee of the Assistant Inspector General, Office of Investigations.

A declination of prosecution by the Department of Justice or the appropriate United States Attorney's Office is not, in and of itself, sufficient reason to decline victim and witness assistance. Such assistance as contemplated by these guidelines should be provided unless, in addition, the appropriate Treasury investigative official determines that allegations of criminal violations are without merit.

c. The components of the Department of the Treasury making the decision that the provisions of this directive should apply or continue to be applied or delegated must ensure that they are in fact applied either through its own resources or through coordination with the Department of Justice.

d. Each Treasury bureau shall designate one or more persons for the purpose of ensuring compliance with the provisions of this directive. Smaller offices or components may have no need for a standing victim-witness coordinator designee. In every office, however, each agency shall designate one individual as the primary contact in each investigation where victim-witness services are applicable.

e. All components of the Department of the Treasury shall:

(1) cooperate with one another to the maximum extent possible in providing the services described in this directive;

(2) keep on file a written description of the procedures and materials used to provide assistance to victims and witnesses in individual cases; and

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(3) coordinate with the Department of Justice as to providing services to victims and witnesses consistent with those described in this directive.

7. SERVICES TO VICTIMS AND WITNESSES. The responsible bureau official should ensure that the following services are provided and that personal contact is initiated with victims and witnesses whenever possible.

a. Referral Services. Victim-witness assistance coordinators should develop and maintain accurate resource materials which identify available counseling and treatment programs in their jurisdictions. Victims should receive available assistance information by the most appropriate and timely means. In coordination with the Department of Justice, bureau personnel should assist victims in contacting, where appropriate, the specific person or office responsible for the following information or assistance:

- (1) emergency medical and/or social services;
- (2) compensation for which the victim may be entitled under applicable law and how to begin the process of applying for it;
- (3) the availability of appropriate public or private programs that provide counseling, treatment, or support;
- (4) the role of the victim in the criminal justice process, including what they can expect from the system as well as what the system will require from them; and
- (5) stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained.

b. Information Services. Victims and witnesses of serious crimes who provide a current address or telephone number should be advised in advance of the defendant's release from custody. In the event of an escape by the defendant, such victims or witnesses shall be apprised as soon as practical. Moreover, a victim should be notified in advance of any parole hearing in accordance with the following rule. As a general rule, bureau investigative components will be responsible for points (1) and (2), and Department of Justice prosecutive components for points (3) through (8):

- (1) steps that may, if warranted, be taken to protect the victim, his family, and witnesses from intimidation;
- (2) the arrest or formal charging of the accused;

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- (3) scheduling changes and/or continuances affecting appearance or attendance at judicial proceedings;
- (4) the release or detention status of the accused;
- (5) the acceptance of a plea of guilty or nolo contendere, or the result of a trial;
- (6) the date set for sentencing if the defendant is found guilty;
- (7) the sentence imposed, including the date on which the defendant may be eligible for parole; and
- (8) for victims, the opportunity to address the court at the time of sentencing.

c. Consultation Services. It is recognized that consultation services must be limited in some cases to avoid endangering the life or safety of a witness, jeopardizing an ongoing investigation or official proceeding, or disclosing classified or privileged information. In cooperation with the United States Attorney, bureau officials may consult victims of serious crimes to obtain their views and provide explanations regarding the following:

- (1) the release of the accused pending judicial proceedings and the conditions thereof;
- (2) the decision not to seek an indictment or otherwise commence a prosecution;
- (3) the proposed dismissal of any or all charges, including dismissal in favor of state prosecution;
- (4) any continuance of a judicial proceeding;
- (5) the proposed terms of any negotiated plea, including any sentencing recommendation to be made by the prosecutor;
- (6) the proposed placement of the accused in a pretrial diversion program;
- (7) the proposed proceeding against the accused as a juvenile defendant;
- (8) restitution; and
- (9) presentation to the court of the victim's views regarding sentencing.

d. Other Services. In addition to the services described above, additional assistance should be extended as follows:

(1) except as provided by law, bureau officials should avoid, to the extent possible, disclosing the addresses of victims and witnesses;

(2) to the extent possible, victims and other witnesses for the prosecution who are called as witnesses in any judicial or administrative proceeding should be afforded a waiting area, removed from and out of sight and earshot of the defendant and defense witnesses;

(3) property of any victim or witness which is held for evidentiary purposes should be maintained in good condition and promptly returned. If the property is not to be returned promptly, an explanation should be given to the victim or witness as to the property's significance in any criminal prosecution;

(4) upon request by a victim or witness, the responsible official should assist in notifying:

(a) the employer of the victim or witness if his cooperation in the investigation or prosecution of the crime causes his absence from work; and

(b) the creditors of the victim or witness, where appropriate, if the crime or his cooperation in its investigation or prosecution affects his ability to make timely payments;

(5) in accordance with the requirements of this directive, responsible officials should establish programs to assist Department employees who are victims of crime;

(6) victims and witnesses should be provided information or assistance with respect to transportation, parking, translator services, and related services; and

(7) responsible officials shall ensure that sexual assault victims are not required to assume the cost of physical examinations and materials used to obtain evidence; if a victim is billed for such an examination or materials, the victim shall be reimbursed by the appropriate component of the bureau.

8. VICTIM IMPACT STATEMENT. The responsible official should ensure that the appropriate U.S. Probation Officer is fully advised of any information pertinent to preparation of the victim impact statement required by rule 32(c)(2) of the Federal Rules of Criminal Procedure so that the report will fully reflect the effects of the crime upon victims as well as the appropriateness and amount of restitution. The victim should be apprised that

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the probation officer is required to prepare a victim impact statement which includes a provision on restitution. The victim should be advised as to how to communicate directly with the probation officer if he or she so desires. Consistent with the available resources and their other responsibilities, Federal prosecutors should advocate the interest of victims at the time of the sentencing.

9. OBSTRUCTION OF JUSTICE. Victims or witnesses should routinely receive information on the prohibition against victim and witness intimidation and harassment and the remedies therefore. The responsible bureau official should, if warranted, advise the Department of Justice or the appropriate United States Attorney's Office of instances involving intimidation or harassment of any victim or witness.

10. TRAINING.

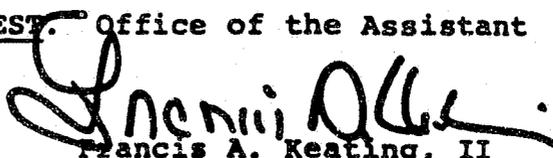
a. All components of the Department of the Treasury covered by the provisions of these guidelines should, beginning not later than 90 days after the issuance of these guidelines, provide appropriate training to designated employees concerning their responsibilities in carrying out these guidelines and provide written instructions to appropriate subcomponents to ensure that the provisions of this part are implemented.

b. All training units conducted or supported by the Department of the Treasury shall develop programs which address victim assistance from the perspective of the personnel they train. These units include the Federal Law Enforcement Training Center and all bureaus as defined by this directive.

11. JUDICIAL REVIEW. The guidelines set forth in this directive are intended only to improve the internal management of the Department of the Treasury, and are not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers or any person. Rather, these guidelines are intended to ensure that responsible officials, in the exercise of their discretion, treat victims and witnesses fairly and with understanding.

12. REFERENCES. Treasury Order 101-05, "Supervision of Bureaus and Offices, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury," dated February 17, 1987.

13. OFFICE OF PRIMARY INTEREST. Office of the Assistant Secretary (Enforcement).


Francis A. Keating, II
Assistant Secretary
(Enforcement)

SECTION THREE

The Federal Victim Witness Service System

This section provides the student with an overview of the elements which make up the service system for victims and witnesses of federal crime. Students will learn the specific actions required of them by the Federal Victim Witness Protection Act. In addition, students will explore the role of other key individuals in the Federal system in helping to ensure both the rights and active participation of Federal victims and witnesses.

In outline, readings in this section consider:

- Your Responsibilities as Federal Law Enforcement**
- Psychological First-Aid Training**
- Crimes Compensation - What You Need to Know**
- A Guide to Local Resources**
- Federal Victim Witness Coordinators - An Important New Resource**
- Victim Impact Statements**
- Sentencing Guidelines - What They Mean To Victims of Crime**
- Federal Prison Notification Procedures - What Victims Need To Know**

INTRODUCTION

This section begins with a graphic entitled " The Federal Victim Witness Service System ". This chart serves to summarize the elements of service outlined in the Federal Guidelines for Fair Treatment of Crime Victims and Witnesses. It represents our goal as law enforcement concerned about the welfare of the victims and witnesses we serve. All the legislation...all the guidelines are ineffective without the commitment of the individual agent, officer or investigator.

This section of readings is designed to help prepare you for the challenge of effective intervention with victims and witnesses of crime. We start with a review of your responsibilities as defined by the Victim and Witness Protection Act and coresponding guidelines

FEDERAL LAW ENFORCEMENT RESPONSIBILITIES TO VICTIMS OF
CRIME

1. Referral Services

- Provide emergency medical and/or social services
- Provide information on compensation for which the victim may be entitled and information on how to begin the process of applying for it
- Provide information about local victim assistance programs.
(Federal victim/witness coordinators in each U.S. Court District are given the responsibility of maintaining accurate resource materials that identify available programs in their jurisdiction)

2. Information Services

Victims and witnesses of serious crime who provide a current address or telephone number should be advised of the following information in a timely manner:

- Steps that may, if warranted, be taken to protect the victim, victim's family and witnesses from intimidation
- The arrest or formal charging of the accused

As a general rule, the above are the responsibility of the investigative component to which the case was assigned. In addition the U.S. Attorney's Office is responsible for notification of the following:

- Scheduling changes and/or continuances affecting their appearance or attendance at judicial proceedings;
- The release or detention status of the accused;
- The acceptance of a plea of guilty or nolo contendere or the results of a trial;
- The date set for sentencing if the defendant is found guilty;
- The final sentence imposed
- The opportunity for victims to address the court at the time of sentencing

THE FEDERAL PROGRAM FOR VICTIMS OF CRIME

The Federal Program for victims of crime largely reflects the work of the President's Task Force on Victims of Crime established in April of 1982. The Task Force in its final report, summarized the findings of its interviews with over one thousand victims, its analysis of hundreds of studies, and its recommendations for major changes in the administration of justice. Spurred by the release of this report, the Federal government has passed two landmark pieces of legislation:

1. Victim and Witness Protection Act of 1982

a. Provides for Victim Impact Statements:

- An objective written description of the medical, financial, and emotional injuries of the victim
- Now mandatory in Federal cases involving victims
- Prepared by U.S. Probation Officer and included as part of the Presentence Investigation
- In cases where VIS reflects aggravating circumstances caused by the victimization, may strongly influence the Judge in imposing a longer sentence. This becomes more important as a result of the new sentencing guidelines.
- Most importantly for you, the Victim Impact Statement is likely to reflect the quality of your interaction with the victim. Make certain it reflects positively on your role as a professional in the Federal criminal justice system

b. Provides increased protection of Victims and Witnesses From Intimidation

- Imposes an additional penalty of up to \$250,000 or ten years imprisonment, or both for tampering with a witness, victim, or informant when such tampering involves: intimidation or physical force ; threatened or attempted physical force
- Imposes an additional penalty of up to \$25,000 or one year imprisonment, or both for harassment of a witness, victim, or informant. As used in this section the term 'harassment' means a course of conduct directed at a specific person that:

- a. causes substantial emotional distress
- b. serves no legitimate purpose

- Provides for civil action to restrain harassment of a victim or witness. Upon application of the U.S. Attorney, the District Court may issue a temporary restraining order prohibiting harassment

c. Establishes a new emphasis on restitution

- Requires that when the Court does not order restitution or orders only partial restitution, it must state on the record the reasons for its actions

d. ESTABLISHES FEDERAL GUIDELINES FOR FAIR TREATMENT OF CRIME VICTIMS AND WITNESSES IN THE CRIMINAL JUSTICE SYSTEM

- As Federal law enforcement personnel your responsibilities are as follows:

- Ensure that victims are given information on the following:

(1) availability of crime victim compensation (a listing of compensation programs is included as part of your student handbook)

(2) community-based victim treatment programs (We will talk more about this in a few minutes)

(3) The role of the victim in the criminal justice process, including what they can expect from the system as well as what the system expects from them; and

(4) stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained

(5) information on steps that law enforcement officers and attorneys for the Government can take to protect victims and witnesses from intimidation

(6) prompt notification if possible of the arrest of the accused

- Additional guidelines stipulate that the prosecution components advise victims of major crimes of: the initial appearance of the accused before a judicial officer; the release of the accused pending judicial proceedings; and additional proceedings in the prosecution of the accused, including: entry of a plea of guilty, trial, sentencing, and, where a term of imprisonment is imposed, the release of the accused from such imprisonment.

- In addition, the attorney for the Government should consult

with the victim or in the case of a minor child or homicide, the family of the victim in order to obtain their views about case disposition, including views on: dismissal; release of the accused pending judicial proceedings; plea negotiations and pretrial diversion

- Victims should be provided with separate waiting areas, prompt return of property held as evidence and assistance with employers and creditors

- Finally, implementation guidelines filed by Federal Law Enforcement Departments serve to further define your responsibilities. Guidelines filed by the Department are representative of those filed. These guidelines require:

- Each agency to designate a primary victim-witness coordinator

- Each agency to maintain on file written descriptions of the procedures and materials used to provide assistance to victims and witnesses.

- That officials avoid, to the extent possible, disclosing the addresses of victims and witnesses.

- That officials see that victims understand the process for preparation of victim-impact statements.

- That sexual assault victims not be required to assume the cost of physical examinations and materials used to obtain evidence.

- And finally, that responsible officials should establish programs to assist Department employees who are victims of crime.

2. VICTIMS OF CRIME ACT OF 1984 - AS AMENDED

- a. Provides up to \$100 million in Federal assistance to victims

- b. Roughly 50% goes to enhance state crimes compensation programs

COMPENSATION ORGANIZATIONS RECEIVING FUNDS MUST PROVIDE SERVICES AND/OR PROVIDE COMPENSATION TO FEDERAL VICTIMS.

- c. Roughly 50% goes to improve local programs of assistance to victims. Some 1500 local programs were expanded last year.

These programs are available to assist your victims

d. A small portion of the Crime Victims Fund is set aside to provide training and technical assistance programs and direct assistance to Federal victims of crime. The Office for Victims of Crime has used this funding to provide training for LECC/VW Coordinators and Assistant U.S. Attorneys. Funding has also been provided to the Federal Law Enforcement Training Center to enhance the quality of training received on victims' issues by Federal law enforcement. In addition, an emergency fund has been established for use by U.S. Attorneys. This fund provides assistance on a short-term basis to Federal crime victims, when no other assistance is available. This funding has helped to provide treatment to children who have been sexually abused in violation of Federal law. Finally, this funding will help to establish a grant program aimed at establishing victim assistance programs in Native American communities.

e. This Act is funded by penalty assessments, forfeitures, and collateral profits by Federal offenders. It's purpose is to improve compensation and the services provided by local programs in your community.

PSYCHOLOGICAL FIRST-AID TRAINING

Introduction

When victims call law enforcement they are upset, they don't know what to expect from the police or the rest of the criminal justice system. As a law enforcement professional, you need to know how to effectively deal with this situation. It is necessary to emotionally merge with the victim or witness, to provide emotional stabilization, in order to get the information that you need and perhaps even more importantly to ensure that the information obtained is accurate - the best possible information.

To be effective in this important area, you must learn how to temporarily move your focus from the "problem" as you perceive it, to the "feelings" of the victim or witness you are dealing with. This means dealing with the "problem" as the victim or witness perceives it.

Typically, law enforcement's response with victims and witnesses has resembled this:

When you first respond to a call, something has just happened and you need a description on it. You respond to the scene and jump out of the car. The more serious the crime the more stress you are likely to feel at this moment. At this point you are after one thing - to get the description - to get it on the air - so that others can look for the perpetrator. The situation is often hurried and you often put pressure on each other at this stage. The message again is get the information - hurry, hurry. You tend to transfer this pressure to the victim or witness. You pressure them to give information before they are in the psychological condition to do so. In that situation, the victim will often give you information just so that you will leave them alone. The result is a "bad" description, one that misleads everyone.

To be effective in this situation; to get the best available information in the most timely manner, you must respond to the situation and the victim/witness in terms of their perceptions. As a first responder, you make a major mistake when you show haste. The victim often perceives this haste as lack of interest or concern. The victim wants to perceive one thing at this point and that is that you care. Let's face it that is hard to read from someone who "seems" to be in a hurry.

You need to learn a simple and quick method for providing psychological first-aid to victims or witnesses in order to be effective in this situation. Your method has to do two things - it has to be considerate of the victim and their needs and - it has to fit somehow into standard police operations - or stated another way it has to be considerate of your needs. One such method is called the You/We/I approach.

The "You" Stage

First must come the giving part. Victims expect the first responder to "show that they care"

Always begin with -- " Are you OK?"

Next -- Really listen to the victim or witnesses' answer. As a crisis responder, you have to deal with what's there. By listening to the victim and witness, you learn their perspective of the event.

Let them vent their feelings. When they do, they reveal to you the emotion they feel. It is this emotion that is a barrier to the information you need.

Be sure to validate with statements like -- " You have every right to feel like that" or " You don't have to feel like that anymore" " We're here " This helps to reassure and provide a sense of safety.

For most victims and witnesses the simple act of showing someone concern, letting them vent and finally validating the feelings they vent, is enough to move to the next stage - We

The "We" stage-

Move quickly to "We" with a statement like " I want you to understand what we are doing." Notice, you start with "you" further emphasizing the importance you place on the victim or witness. The message in this stage is "we", the victim/witness and the officer or investigator are in this together. A short period of time spent in prediction and preparation, allows us to move quickly to " I " , what you as law enforcement need

The "I" stage-

Start by moving back to "You". " Now if you feel up to it - I need a description." You may wish to follow with a statement like - " I am going to be taking a report - so I'll be writing down what you say. OK? " Again giving the victim control.

If the victim still wants to talk rather than give you a description - tell them your time frames. Don't be afraid to suggest that the victim move on. Be sure, however, to let them know that you will be happy to discuss that problem after you get the description. If the victim pauses in his words - give him a chance - don't rush him - use positive reinforcements - Remember you don't want to destroy the original intake of information. We are after the best available evidence and when you rush a victim or witness in crisis: YOU MAY HAVE JUST DESTROYED EVIDENCE.

After you get a description

Explain that you need to get the description out on the air

Ask permission to leave temporarily in order to do so. Again you are giving the victim a choice and helping to return control.

Return to the victim after putting out the description. Focus again on their immediate needs. Give them an idea of what to expect. Consider giving your victim or witness an information brochure. Remember as a first responder you only have a short time with the victim and often you are turning the victim loose on their own to go right back into crisis if you don't refer them to victim services. Their staff is trained and they know what to do. Think of it this way - you have started to build a strong case since you stabilized the victim. You want your victim in court testifying even stronger. Victim services staff make sure that your victim does become a stronger and more effective witness. That's your goal -- to help make your victim an effective witness...because an arrest without conviction is pointless!

In some cases the victim or witness will need further assistance in order to start to regain control. You can help the victim to define their principal problem. Ask "What is the one thing you need - right now?"

You will probably get a quick response such as-

"What about my kids? Are they all right?' Or

"My jeans are ripped. I want to change clothes."

If at this stage, you take care of a little problem - you help your victim or witness regain control - you build rapport - and you increase your chances of getting accurate information.

Summary

When you effectively use "psychological first-aid", you remove the emotional blockage that exists between you and the information you need to get from your victim or witness. Learning these simple tools and applying them correctly can assist you in obtaining the best available information in the most timely manner. You also help to strengthen your victim and witness emotionally, further insuring their effectiveness at future stages in the investigation and prosecution of your case.

CRIMES COMPENSATION - HELP FOR VICTIMS OF VIOLENT CRIME

As a federal law enforcement official, an understanding of crimes compensation is important to you for the following reasons:

(1) You are required by Section 6(a) of the Federal Victim/Witness Protection Act of 1982 to advise victims of violent crime of the compensation program in your area

(2) You will help demonstrate your concern to your victim/witness

(3) This referral may help to aid cooperation. Most programs require that the victim continue to cooperate with law enforcement in order to remain eligible for compensation.

For victims of violent crime, emotional pain and suffering is often compounded by financial burdens-- which may be overwhelming. These burdens may include: hospital and other medical bills, months of lost wages, the cost of long term treatment or rehabilitation, forced career change or even permanent disability. Families of murder victims often confront not only their personal grief but total loss of family income. For some, even minor loss can be devastating. Take for example, the difficulties encountered by some elderly robbery victims in replacing shattered eyeglasses or a broken hearing aid. It was in response to needs like these that victim compensation programs were developed.

The first compensation programs were implemented in New Zealand and England in the year 1964. Since then more than twenty nations have passed similar legislation. The issue of victim compensation has received considerable attention in this country since the first program was established in California in the year 1965. Since then, programs have been developed in forty-four states and the District of Columbia. Compensation is also available to victims of Federal crime by direct referral to State programs.

Although programs vary state-by-state or country-by-country, most provide reimbursement of certain out of pocket expenses incurred by victims of violent crime including: medical bills not covered by insurance, lost wages and in the case of death -- certain funeral expenses. As a direct result of provisions of the Federal Victims of Crime Act of 1984, most programs now provide assistance with the costs of rape examinations and costs of psychotherapy and other counseling necessary as

a result of violent crime. Most programs do not provide compensation for general property loss (except items such as eyeglasses, hearing aids or dentures --- broken or stolen during the commission of the violent act).

All programs have eligibility and benefit restrictions. These will vary greatly between states. Typically these restrictions deal with the nature of which crimes are eligible, the relationship of the victim and the offender, the role of contributory misconduct, financial hardship requirements, filing deadlines and rules regarding crime reporting and cooperation with law enforcement officials. The maximum amount of an award can vary from \$5,000 to \$50,000.

In recent years programs have generally eased their definitions of what constitutes financial hardship; have greatly streamlined their application process and have significantly reduced the time between application and award. Program funding comes from a variety of sources depending on the state, including both fines and penalties assessed against criminal offenders and general revenue. Funding recently made available to state programs through the Victims of Crime Act, has significantly improved the overall financial condition of most programs. Most have used the funding to further reduce eligibility restrictions as well as the time necessary to receive an award. Programs receiving federal funds must also agree to provide compensation to out-of-state victims injured in their state.

The major problem remaining with most state programs is the lack of public awareness concern the program's existence. Law enforcement can play an important role in the awareness process. As a federal law enforcement agent or officer, your victim is not likely to know that compensation exist unless you refer them. Remember to refer violent crime victims to the state program in your area. Federal victims are eligible for compensation under new provisions of state programs. A directory of state programs is included to assist you in making proper referral.

COMPENSATION CAN MAKE AN IMPORTANT DIFFERENCE FOR YOUR VICTIM

STATE CRIME VICTIM COMPENSATION PROGRAMS

ALABAMA

Title Program: Alabama Crime Victims Compensation Commission

Address: 114 N. Hull St.
Montgomery , Alabama

Telephone: 205-261-4007

Contact Person: Ms. Anita Armstrong-Morgan

ALASKA

Title Program: Violent Crimes Compensation Board

Address: P.O. Box N
Juneau, Alaska

Telephone: 907-465-3040

Contact Person: Ms. Nola K. Capp

ARIZONA

Title Program: Arizona State Victim Compensation

Address: 1275 W. Washington
Phoenix, Arizona

Telephone: 602-255-1928

Contact Person: Peter Haynes

ARKANSAS

Title Program: No Program Established

Address: Attorney General's Office
Heritage West Bldg. #510
201 E. Markham Street
Little Rock, Arkansas 72201

Telephone: 501-371-2007

Contact Person: Ms. Laurie Dell Bono

CALIFORNIA

Title Program: Victim Indemnification Program

Address: 926 "J" Street - Suite 300
Sacramento, California 95814

Telephone: 916-422-4426

Contact Person: Fred Buenrostro

COLORADO

Title Program: Victims Compensation Board

Address: 2 E. 14th Ave.
Denver, Colorado 80203

Telephone: 303-861-1111

Contact Person:

CONNECTICUT

Title Program: Criminal Injuries Compensation Board

Address: 175 Main St.
Hartford, Connecticut 06106

Telephone: 203-566-4156

Contact Person: Mr. John C. Ford

D.C.

Title Program: D.C. Office of Crime Victim Compensation

Address: 1200 Upshur St.N.W.
Washington, D.C. 20011

Telephone: 202-576-7706

Contact Person: Ms. Betty B. Wilson

DELAWARE

Title Program: Violent Crime Compensation Board

Address: 1500 E. Newport Pike, Ste. 10
Wilmington, Delaware 19804

Telephone: 302-995-8383

Contact Person: Mr. Oakley M. Banning, Jr.

FLORIDA

Title Program: Bureau of Crimes Compensation

Address: 2551 Executive Circle West
Lafayette Bldg., Suite 202
Tallahassee, Florida 32301-5014

Telephone: 904-488-0848

Contact Person: Mr. Peter K. Peterson

GEORGIA

Title Program: No Program Established

Address:

Telephone:

Contact Person:

HAWAII

Title Program: Criminal Injuries Compensation Commission

Address: P.O. Box 339
Honolulu, Hawaii 96809

Telephone: 808-548-4680

Contact Person: Mr. Wilfred S. Pang

IDAHO

Title Program: No Program Established

Address:

Telephone:

Contact Person:

ILLINOIS

Title Program: Crime Victims Division

Address: Attorney General's Office
174 W. Randolph, 3rd. Flr.
Chicago, Illinois 60601

Telephone: 312-793-2585

Contact Person: Ms. Joann Robinson

INDIANA

Title Program: Violent Crime Compensation Board

Address: 601 N. Senate Ave.
State Office Bldg.
Indianapolis, Indiana 46204

Telephone: 317-232-7103

Contact Person: Mr. John Shanks II

IOWA

Title Program: Crime Victims Reparation Board

Address: Wallace State Office Building
Des Moines, Iowa 50319

Telephone: 319-281-5044

Contact Person: Ms. Marda Howard

KANSAS

Title Program: Crime Victims Reparation Board

Address: 503 Kansas Ave., Suite 212
Topeka, Kansas 66603

Telephone: 913- 296-2359

Contact Person: Mr. Ken Bahr

KENTUCKY

Title Program: Crime Victims Compensation Board

Address: 113 E. 3rd. St.
Frankfort, Kentucky 40601

Telephone: 502-564-2290

Contact Person: Ms. Illse Dickerson

LOUISIANA

Title Program: Crime Victims Compensation Board

Address: Commission on Law Enforcement
2121 Wooddale Blvd.
Baton Rouge, Louisiana 70806

Telephone: 504-925-4430

Contact Person: Mr. Robert Wertz

MAINE

Title Program: No Program Established

Address:

Telephone:

Contact Person:

MARYLAND

Title Program: Criminal Injuries Compensation Board

Address: 6776 Reisterstown Rd., Suite 313
Towson, Maryland 21215-2340

Telephone: 301-764-4214

Contact Person: Mr. William O'Hara

MASSACHUSETTS

Title Program: Criminal Victim Compensation Program

Address: Attorney General's Office
1 Ashburton Pl.
Boston, Massachusetts 02108

Telephone: 617-727-5025

Contact Person: Hon. Nicholas Arenella

MICHIGAN

Title Program: Crime Victims Compensation Program

Address: P.O. Box 30026
Lansing, Michigan 48909

Telephone: 517-373-7373

Contact Person: Mr. Michael T. Fullwood

MINNESOTA

Title Program: Crime Victims Advisory Council

Address: 1821 University Ave.
Griggs Midway Bldg., Rm. N465
St. Paul, Minnesota 55104

Telephone: 612-642-0395

Contact Person: Ms. Fern Sepler-King

MISSISSIPPI

Title Program: No Program Established

Address:

Telephone:

Contact Person:

MISSOURI

Title Program: Crimes Victims Compensation Board

Address: P.O. Box 58
Jefferson City, Missouri 65102

Telephone: 314-751-4231

Contact Person: Ms. Connie Souden

MONTANA

Title Program: Crime Victim Compensation Board

Address: 5 S. Last Chance Gulch
Helena, Montana 59601

Telephone: 406-444-6535

Contact Person: Ms. Cheryl Bryant

NEBRASKA

Title Program: Crime Victims Reparation Board

Address: 301 Centennial Mall S.
Lincoln, Nebraska 68509

Telephone: 402-471-2828

Contact Person: Mr. Jim Joneson

NEVADA

Title Program: Victims of Crime Compensation Program

Address: 209 E. Musser St., Suite 205
Carson City, Nevada

Telephone: 702-885-4065

Contact Person: Mr. Bill Bible

NEW HAMPSHIRE

Title Program: No Program Established

Address:

Telephone:

Contact Person:

NEW JERSEY

Title Program: Violent Crimes Compensation Board

Address: 60 Park Pl.
Newark, New Jersey 07102

Telephone: 201-648-2107

Contact Person: Mr. Kenneth W. Welch

NEW MEXICO

Title Program: Crime Victims Reparations Commission

Address: 8100 Mount Road N.E., Ste.414
Albuquerque, New Mexico 87103

Telephone: 505-841-4694

Contact Person: Mr. Daniel Martinez

NEW YORK

Title Program: Crime Victims Compensation Board

Address: 270 Broadway
New York City, New York 2007

Telephone: 212-587-5160

Contact Person: Mr. Ronald Zweibel

NORTH CAROLINA

Title Program: Victim and Justice Compensation Program

Address: P.O. Box 27687
Raleigh, North Carolina 27611

Telephone: 919-733-7974

Contact Person: Mr. Robert A. Hassell

NORTH DAKOTA

Title Program: Crime Victims Reparations

Address: 4007 N. State St.
Bismarck, North Dakota 58501

Telephone: 702-224-2700

Contact Person: Ms. Katherine Sapron

OHIO

Title Program: Victims of Crime Division, Court of Claims

Address: 65 E. State St., Ste. 1100
Columbus, Ohio 43215

Telephone: 614-462-8750

Contact Person: Mr. Henry Helling

OKLAHOMA

Title Program: Crime Victim Compensation Board

Address: 5125 N. Sante Fe St.
Oklahoma City, OK 73118

Telephone: 405-521-2330

Contact Person: Mr. Charles W. Wood

OREGON

Title Program: Crime Victims Compensation Program

Address: 100 Justice Bldg.
Salem, Oregon 97310

Telephone: 503-378-5348

Contact Person: Mr. Jerry Christensen

PENNSYLVANIA

Title Program: Crime Victims Compensation Board

Address: 307 Finance Bldg.
P.O. Box 1323
Harrisburg, Pennsylvania 17120

Telephone: 717-783-5153

Contact Person: Mr. Marvin E. Miller

RHODE ISLAND

Title Program: Criminal Injuries Compensation Program

Attorney General's Council Division

Address: 72 Pine St.
Providence, Rhode Island 02903

Telephone: 401-274-4400, ext.394

Contact Person: Hon. Mary Beth Holland

SOUTH CAROLINA

Title Program: Crime Victims Compensation Fund

Address: 800 Dutch Square Bldg., Ste. 160
Columbia, South Carolina 29210

Telephone: 803-737-9465

Contact Person: Mr. John W. Scott

SOUTH DAKOTA

Title Program: No Program Established

Address:

Telephone:

Contact Person:

TENNESSEE

Title Program: Criminal Injuries Compensation Board
State Board of Claims

Address: State Office Bldg.
1206 Andrew Jackson Bldg.
Nashville, Tennessee 37219

Telephone: 615-741-2734

Contact Person: Ms. Tracy Todd

TEXAS

Title Program: Crime Victims Compensation Program

Address: 105 W. Riverside Dr., Ste. 220
Austin, Texas 78704

Telephone: 512-472-7814

Contact Person: Mr. Jerry Belcher

UTAH

Title Program: Office of Crime Victim Reparations

Address: 3266 State Office Bldg.
Salt Lake City, Utah 84114

Telephone: 801-533-6466

Contact Person: Mr. Dan Davis

VERMONT

Title Program: No Program established

Address:

Telephone:

Contact Person:

VIRGINIA

Title Program: Division of Crime Victim Compensation

Address: P.O. Box 1794
Richmond, Virginia 23214

Telephone: 804-257-8686

Contact Person: Mr. Robert W. Armstrong

WASHINGTON

Title Program: Crime Victim Compensation Section
Dept. of Labor and Industries

Address: General Administration Bldg.
Mail Stop H.C. 720
Olympia, Washington 98504

Telephone: 206-753-6318
Contact Person: Mr. Brian J. Huseby

WEST VIRGINIA

Title Program: Crime Victims Reparation Division
West Virginia Court of Claims

Address: State Office Bldg., Rm. 6, State Capitol
Charleston, West Virginia 25305

Telephone: 304-348-3470
Contact Person: Ms. Becky O'Fish

WISCONSIN

Title Program: Crime Victims Compensation Program

Address: P.O. Box 7951
Madison, Wisconsin 53707-7951

Telephone: 608-266-6470
Contact Person: Mr. Richard H. Anderson

WYOMING

Title Program: Crime Victim Compensation Program

Address: 3rd Fl., Barrett Bldg
Cheyenne, Wyoming 82002

Telephone: 307-777-5990
Contact Person: Ms. Sylvia Bagdonas

Title Program: Virgin Islands Crime Victims Compensation

Address: Charlotte Amalie
P.O. Box 550
St. Thomas, Virgin Islands 00801

Telephone: 809-774-1166

Contact Person: Mr. Norman L. Johansen

REFERRAL SERVICES - A GUIDE TO LOCAL RESOURCES

It is important that you be knowledgeable of local resources to assist victims and witnesses for the following reasons:

1. Referral to local programs is required by the victim/witness protection act
2. You will be demonstrating your concern for your victim/witness
3. Local services can help the victim/witness to deal more effectively with their crisis. That can ensure a better witness and a stronger case.

There are literally thousands of assistance programs available throughout the country in both large and small communities. Programs can be located in prosecutors' offices, police departments, probation services, hospitals or community mental health centers. They can be sponsored by state or local government, the private sector or community based nonprofit organizations. The general public's interest in victim services coupled with the supportive funding now available through the Federal government should serve to further encourage program growth and development.

It is suggested that you get to know the programs that serve your area. One place to begin is the Victim/Witness Coordinator with the U.S. Attorney's Office in your district. Because they deal with victims and witnesses on a daily basis they will naturally be familiar with those in your community. Once you get to know which programs are available the next step is to make contact. Find out the specific services they can offer your victims and witnesses. Most community based programs will make presentations to groups such as law enforcement. You may want to suggest such a program as part of your agency's in-service training program.

Information on local programs should be included as part of any brochure designed for victims and witnesses and distributed by your organization. Make certain that information is updated regularly or as new programs are developed in your community. Again the Victim-Witness Coordinator in your area can assist. Departments which have a high concentration of violent crime victims may wish to provide their staff with a victim assistance guide such as the one developed by the New Orleans Police Department. Their guide lists services according to categories such as : alcohol or drug use, children

and youth, family problems, housing, senior citizens and others. If desired, your Victim-Witness Coordinator can assist in the development of a guide of local services in your area.

TIMELY AND APPROPRIATE REFERRAL CAN MAKE A DIFFERENCE

POSSIBLE COMMUNITY RESOURCES

1. Community based victim assistance programs
2. Prosecutor based victim assistance programs
3. Sheriff / Local law enforcement sponsored victim assistance
4. M.A.D.D. [Mothers against Drunk Driving]
5. P.O.M.C. [Parents of Murdered Children]
6. Compassionate Friends - Bereavement Support Group
7. Rape Crisis Center
8. Spouse Abuse Center
9. Emergency Housing for Adults and Children
10. Community Mental Center
11. Travelers Aid
12. Department of Family and/or Community Services
13. Religious Community - [for example, St. Vincent De Paul or Salvation Army]
14. Civic Organizations - [for example, Rotary, Kiwanas, and Junior league]

Federal victim/witness coordinators in each U.S. Court District are given the responsibility of maintaining accurate resource materials that identify available programs in their jurisdiction.

FEDERAL VICTIM WITNESS COORDINATORS - AN IMPORTANT NEW
RESOURCE

As a Federal law enforcement professional you should be aware of an important new resource available to help meet the needs of your victims and witnesses. That resource is the Federal LECC/Victim-Witness Coordinator assigned to the U.S. Attorney's Office in your Federal Court District. It is the responsibility of this coordinator to assist attorneys and Federal law enforcement in fulfilling their responsibilities as defined by the Victim Witness Protection Act of 1982.

In addition to their victim/witness responsibilities, the coordinator is also charged with overseeing the Law Enforcement Coordinating Committee (LECC) which consists of all levels of law enforcement. The goal of LECC is to improve coordination and cooperation between Federal, state and local law enforcement and to address specific issues and needs through its various subcommittees. In many Federal districts, one of those subcommittees addresses the needs of area victims and witnesses. In some federal districts, subcommittees have been effective in : developing and delivering training in the area of victim/witness awareness, compiling directories of available services, supporting the expansion of existing services and encouraging the development of programs to serve Federal, state and local victims and witnesses.

Your agency's involvement with the Federal LECC/Victim - Witness Coordinator can help you:

- Identify the programs in your area available for referral
- Develop and implement effective in-service training in victim-witness awareness
- Support and help expand existing assistance programs
- Develop programs where none exist

Attached is a list of current coordinators and a brief description of the duties for which each is generally responsible. Specific responsibilities may vary according to district and you should contact the coordinator in your district for a precise description of their duties.

FEDERAL VICTIM - WITNESS COORDINATOR - RESPONSIBILITIES

1. Provides victims and witnesses with an orientation to the Federal criminal justice system
2. Directs crime victims to appropriate local services
3. Informs victims of the availability of state compensation program
4. Encourages victims to complete VICTIM IMPACT STATEMENTS
5. Provides notification to victims and witnesses regarding case status, court appearances, and case disposition
6. Informs witnesses of the availability of witness fees and reimbursement for expenses
7. Works with the Assistant United States Attorney to ensure that victims and witnesses receive the rights, services and information defined by the Standards of Fair Treatment
8. Helps to prepare the victim/witness for the experience of testifying in a court of law
9. Once the trial has begun, assists in solving accommodation problems and transportation services
10. Assist the victim in applying to the Bureau of Prisons for information concerning the release of the inmate

VICTIM-WITNESS AND LAW ENFORCEMENT COORDINATORS
EXECUTIVE OFFICE FOR UNITED STATES ATTORNEYS
UNITED STATES DEPARTMENT OF JUSTICE

DISTRICT	V-W/L.E.C.C. CONTACT COORDINATOR	INDIVIDUAL FTS NUMBER
ALABAMA		
Middle	Emily Rutledge	534-7280
Northern	Geri C. O'Byrn	229-1785
Southern	Eric Day	537-2845
ALASKA		
	Janice Wenz	907-271-5071
ARIZONA		
	Jan Emmerich	261-3011
ARKANSAS		
Eastern	Jana K. Brown	740-5173
Western	David Ferguson	740-5173
CALIFORNIA		
Central	Grace Denton	798-6159
Eastern	Helene J. Tenette	460-2700
Northern	Jack Norton	556-6432
Southern	Brenda Mason	895-5610
COLORADO		
	Mary Anne Castellano	564-2081
CONNECTICUT		
		645-2108
DELAWARE		
	Richard Andrews	487-6277
DISTRICT OF COLUMBIA		
	Anita Boles	272-9401
	Linda Brown Hall	272-9164
	Clendon Lee	272-9017
FLORIDA		
Middle	Gayla Lemke	826-2941
Northern	Gail London	965-7360
Southern	Jocelyn Lindsay	350-5460
GEORGIA		
Middle	Alice Waller	238-0454
Northern	Diane (Didi) Nelson	242-6954
Southern	Marion (Didi) Nelson	248-4422
GUAM/N.M.I.		
	Salome Bias	550-7332
HAWAII		
	Ora Morita	551-2850

DISTRICT	V-W/L.E.C.C. CONTACT COORDINATOR	INDIVIDUAL FTS NUMBER
IDAHO	Linda Hopfenbeck	554-1936
ILLINOIS		
Central	Charlotte McCormick	955-4450
Northern	Loretta Tyson	353-4316
Southern	Gerald Johnson	277-9361
INDIANA		
Northern	James M. Nesterham	370-5215
Southern		331-6333
IOWA		
Northern	Paul Lillios	863-2503
Southern	Paul HOFFEY	862-6257
KANSAS	Clyde Bevis	752-6481
KENTUCKY		
Eastern	Edward Ostendorff	352-5911
Western	Patty Kidd	352-5911
LOUISIANA		
Eastern	Mary Jane Lattie	682-2921
Middle	Carol Long	687-0443
Western	Leila Frankie	493-5291
MAINE	Albert T. Jamison	833-3257
MARYLAND	Ginny Mahoney	922-4822
MASSACHUSETTS	Janet Fuller	223-9486
MICHIGAN		
Eastern	Sam Hutchinson	226-7246
Western	Andrea Morse-Friend	372-2404
MINNESOTA	Karen Jambor	781-7430
MISSISSIPPI		
Northern	Nicky Hall	490-4926
Southern	J. Derryle Smith	490-4480
MISSOURI		
Eastern		279-4200
Western	Rebecca Tillman	758-3122
MONTANA	Debbie Boyle	585-6101

DISTRICT	V-W/L.E.C.C. CONTACT COORDINATOR	INDIVIDUAL FTS NUMBER
NEBRASKA	Lisa Kessner	864-4774
NEVADA	Robin Skone-Palmer	598-6336
NEW HAMPSHIRE	Keith Lohmann	225-1552
NEW JERSEY	Robert Stahl	348-2745
NEW MEXICO	Kenneth Berry	474-3341
NEW YORK		
Eastern	Nancy Fabrizio	656-7014
Northern	Dick Gildersleeve	562-5522
Southern	Clara Palumbo	662-0055
Western	Jo Anne DeVoy	437-4811
NORTH CAROLINA		
Eastern	Retha J. Lee	672-4530
Middle	Caren Clark	699-5351
Western	Cenie Alexander	672-0661
	Donna Murphy	672-6222
NORTH DAKOTA	Carol Fricke	783-5671
OHIO		
Northern	Mike Caylor	293-3955
Southern	Ann Collins	684-3711
OKLAHOMA		
Eastern	Carl Kelly	736-2543
Northern	Randy Edgnon	745-7463
Western	Marvin Maxwell	736-5281
OREGON	Pam Powers	423-2101
PENNSYLVANIA		
Eastern	Mary Jo Gordon	597-4366
Middle	Richard Wetherbee	592-8301
Western	Joan Ward	722-3518
PUERTO RICO	Orlando Rios-Walker	809-753-4856
RHODE ISLAND	Lisa A. Deane	838-5477
SOUTH CAROLINA	Freda Hensley Lynch	677-5483

DISTRICT	V-W/L.E.C.C. CONTACT COORDINATOR	INDIVIDUAL FTS NUMBER
SOUTH DAKOTA	Nancy Stoner Lampy	782-4395
TENNESSEE		
Eastern		854-4561
Middle	Dolores Peterman	852-5151
Western	Doris Holt	222-4231
TEXAS		
Eastern	Lucy Eaves	527-2538
Northern		729-0951
Southern	Joan Jurjevich	526-4740
Western	Beverly N. Cox	730-6500
UTAH	Robert Mucci	588-5682
VERMONT	Jim Leene	832-6725
VIRGIN ISLANDS	Ritza DeGout	809-774-5757
VIRGINIA		
Eastern	Karen Spinks	557-9100
Western	Betty Fitzgerald	937-6250
WASHINGTON		
Eastern	Betty North	439-3811
Middle	Stephen Carlisle	399-4734
WEST VIRGINIA		
Northern	Beth Lurz	304-232-4026
Southern	Deanna Corbin	930-5145
WISCONSIN		
Eastern	Francie Wendelborn	362-1732
Western	Daniel Bach	364-5158
WYOMING	Bruce Edwards	328-2124

VICTIM IMPACT STATEMENTS

As a federal law enforcement official, an understanding of victim impact statements is important to you for the following reasons:

1. Departmental guidelines filed following the passage of the Victim/Witness Protection Act of 1982, require that you inform the victim of their rights in the process of preparing victim impact statements.

2. By explaining this process to the victim, you will help to demonstrate your concern. This will help to aid in the goal of obtaining maximum cooperation of your victim/witness.

3. By educating your victim/witness, you will aid in ensuring that federal justice officials have a clear understanding of the financial, social, psychological and physical harm suffered by your victim.

The Victim/Witness Protection Act of 1982, amends paragraph (2) - Rule 32(c) of the Federal Rules of Criminal Procedures to read as follows:

"(2) REPORT.-- The presentence report shall contain-

"(A) any prior criminal record of the defendant;

"(B) a statement of the circumstances of the commission of the offense and circumstances affecting the defendant's behavior;

"(C) information concerning any harm, including financial, social, psychological, and physical harm, done to or loss suffered by any victim of the offense; and

"(D) any other information that may aid the court in sentencing, including the restitution needs of any victim of the offense".

In the United States Court System, when a defendant is apprehended and charged and is either found guilty or enters a plea of guilty, a presentence report is ordered by the Court before imposing sentence. Traditionally, this report has helped the Court to understand the offender and the circumstances that led to their involvement in the offense. The Victim Impact Statement, now required by law, insures that the Court is also informed of both the emotional and financial hardships experienced by the victim.

The U.S. Probation Office is responsible for preparing both the presentence report and the victim impact statement. It is your obligation to ensure that the appropriate U.S. Probation Officer is fully advised of information in your possession. This helps ensure that the report will reflect the effects of the crime upon victims as well as the appropriateness and amount of restitution. Be sure to tell your victim about the victim impact statement and of their right to communicate directly with probation. Let them know that the victim/witness coordinator with the U.S. Attorney's office can also assist them in this area. Many of the offices now provide the victim with a form to help probation in gathering necessary information in this area. Attached are examples of the forms currently in use in many U.S. Districts.

An Impact Statement that truly reflects the hardships experienced by your victim may have a strong effect on the nature of any negotiated plea. A properly prepared Impact Statement also affects how a final sentence is determined under Sentencing Guidelines.

Only in recent years has the opportunity existed for victims to initiate "victim impact statements". As of 1987, thirty-four states in addition to the Federal government, have enacted legislation authorizing written impact statements. Despite their widespread use and acceptance, victim impact statements are not without their critics. Some have objected that the intent of the criminal--rather than the consequences of the crime on the victim--should serve as the basis of sentencing. Still others fear that impact statements, particularly oral statements, may inject unwarranted emotional factors into the sentencing process.

Appropriate use of the victim impact statement was the focus of a recent decision by the Supreme Court. The Supreme Court held in *Booth v. Maryland*, 55 U.S.L.W. 4836 (U.S. June 15, 1987) (No. 86 - 5020) that the introduction of a victim impact statement at the sentencing hearing in a capital murder case violated the Eighth Amendment. The Court found that the Eighth Amendment's prohibition against cruel and unusual punishment was violated because the information contained in the victim impact statement is irrelevant to a capital sentencing decision, and its use creates a constitutionally unacceptable risk that the death penalty could be imposed in an arbitrary and capricious manner.

The Court expressly confined its prohibition of the use of

the victim impact statement to capital sentencing hearings. Aircraft piracy is currently the only Federal crime for which capital punishment is authorized, and Booth would ban the use of victim impact statements where the death penalty is sought. Death penalty provisions provided by all other Federal crimes have been found to be void under Supreme Court decisions reached under Furman V. Georgia, the landmark case which struck all state and Federal death penalty statutes.

The Booth decision should not change the current practice of using victim impact statements in the Federal criminal justice system under the Attorney General's Victim Witness Guidelines or Rule 32 (c) (2) (C) of the Federal Rules of Criminal Procedure.

In fulfilling your responsibilities, as defined by the Victim/Witness Protection Act and resultant implementation guidelines, the following actions are recommended:

Early in the investigative process

- Make certain to the victim knows of their right to file a victim impact statement
- Let the victim know that you will assist
- Encourage the victim to keep a record or diary of their feelings, emotions and hardships
- Encourage the victim (if appropriate) to maintain accurate records of expenses, bills etc. so that the impact statement accurately reflects the amount of restitution which should be paid back by the defendant

Following an arrest

- Encourage the victim to talk personally with both the Federal V/W Coordinator, and the U.S. Probation Officer preparing the presentence report about how they were impacted by the crime
- Advise the victim of the opportunity to personally address the Court at the time of sentencing



Exhibit H-25

VICTIM DECLARATION

UNITED STATES v. _____

(COURT NUMBER) _____

RELATING TO (Very Brief Description of Crime) _____

NAME OF VICTIM _____

ADDRESS: _____

Street City State Zip

DATE OF BIRTH: _____

1. We have been advised that you are a victim of a crime. As a result of this incident, were you physically injured? _____

If yes, please describe the extent of your injuries. _____

2. Did you require medical treatment for the injuries sustained? _____

If yes, please describe the treatment received and the length of time treatment was or is required _____

3. Amount of expenses incurred to date as a result of medical treatment received: _____ Anticipated expenses: _____

4. Were you psychologically injured as a result of this incident? _____

If yes, describe the psychological impact which the incident has had on you. _____

5. Have you received any counselling or therapy as a result of this incident? _____

If yes, please describe the length of time you have been or will be undergoing counselling or therapy, and the type of treatment you have received. _____

6. Amount of expenses incurred to date as a result of counselling or therapy received: \$ _____

7. Has this incident affected your ability to earn a living? _____

If yes, please describe your employment, and specify how and to what extent your ability to earn a living has been affected, days lost from work, etc. _____

8. Have you incurred any other expenses or losses as a result of this incident? _____

If yes, please describe. _____

9. Did insurance cover any of the expenses you have incurred as a result of this incident? _____

If yes, please specify the amount and nature of any reimbursement. _____

10. Has this incident in any way affected your lifestyle or your family's lifestyle? _____

If yes, please explain. _____

11. Are there any other residual effects of this incident which are now being experienced by you or members of your family? _____

12. Please describe what being the victim of crime has meant to your family. _____

13. What are your feelings about the criminal justice system? Have your feelings changed as a result of this incident? Please explain. _____

14. Do you have any thoughts or suggestions on the sentence which the court should impose herein? Please explain, indicating whether you favor imprisonment. _____

15. Please attach copies of all records necessary to support the injuries and losses described above. This includes any medical bills, official records of days lost from your employment, any estimates of value of stolen property or damage to property, and any receipts for replacement of stolen or damaged property.

THIS FORM IS SUBSCRIBED AND AFFIRMED BY THE VICTIM AS TRUE UNDER THE PENALTIES OF PERJURY. (TITLE 18, U.S.C. §1001).

DATE: _____ Signature: _____

PRIVACY ACT STATEMENT: 1. AUTHORITY: There is no statutory authority for the collection of this information. This information is supplied on a VOLUNTARY basis by victims of crimes; PURPOSE AND USE: To obtain information from victims of crimes regarding the impact of a crime on a victim. This information could be used for purposes of obtaining court-ordered restitution for the victim, and assisting the United States Probation Officer in obtaining information for the Victim Impact Statement; 3. EFFECTS OF NON-DISCLOSURE: Disclosure of this information is VOLUNTARY. Failure to disclose may result in an inadequate assessment of victims needs for application for court-ordered restitution.

Adapted from a Crime Victims Impact Statement prepared by the Washington Legal Foundation, 1981.

VICTIM IMPACT STATEMENT

NAME: _____

UNITED STATES v. _____ CRIMINAL NO. _____

Please complete as fully as possible. Use the reverse side or a third additional sheets. Statements made may be used as part of the presentence report and can be seen by the defendant and his/her attorney.

___ No, I do not wish to make a statement.

PHYSICAL IMPACT

Did you suffer any physical injury or disability as a result of this crime? Yes _____ No _____ If yes, please give a description:

Did you require medical treatment? If so, please describe treatment (or attach copies of any reports you have) and length of treatment:

EMOTIONAL IMPACT

Please describe your feelings regarding what happened, how it effected your life, and what impact, if any, it has had on your relationship with family members, friends, co-workers, etc.

Have you been involved with or are you now in counseling. Please explain.

FINANCIAL STATEMENT

Completing this section is not the same as filing a civil law suit for damages. Contact a private attorney for that.

A. Damages

1. List property lost or destroyed and its value.
(attach any supporting documents)

_____ \$ _____

_____ \$ _____

2. Medical expenses \$ _____
(please attach any supporting receipts)

3. Lost income or wages \$ _____

4. Miscellaneous expenses (list type and amount)

_____ \$ _____

_____ \$ _____

5. Financial loss (list types of investments)

_____ \$ _____

_____ \$ _____

TOTAL LOSS \$ _____

B. Reimbursement received (please attach copies of receipts)

1. Property insurance \$ _____

2. Medical insurance \$ _____

3. Reimbursed wages or income \$ _____

4. Other (list source and amount) \$ _____

_____ \$ _____

TOTAL REIMBURSEMENT \$ _____

This form is subscribed and affirmed as being true under penalty of law (18 U.S.C. §1001).

Date: _____ Signature: _____

FINANCIAL FRAUD (WHITE COLLAR CRIME) VICTIM QUESTIONNAIRE

United States v. _____

U. S. Attorney File # _____

We have been advised that you are a victim of a financial crime. In the event the above-named Defendant pleads guilty or is convicted, the Judge may order the Defendant to pay restitution in this case. We request your voluntary cooperation in completing this questionnaire. The Judge and the Probation Office is interested in knowing how the crime has affected you as well as what punishment you feel the Defendant should receive. The information you provide will be incorporated into the presentence investigation report on the Defendant and made available to the Court at the time of sentencing.

Name of Victim _____

Address: _____
Street City State Zip Code

Date of Birth: _____

1. What kind of financial loss have you experienced as a result of the crime that has not been reimbursed by insurance or any other means?

2. What sentence do you feel the Defendant should receive? Please explain, indicating whether you favor imprisonment. _____

3. What emotional impact has this crime had on your and/or your family?

Feel free to include any additional comments or information you may have on the back of this form or on a separate sheet of paper.

Please return this information and any documentation you have to support your loss on or before _____, in the enclosed, stamped, self-addressed envelope to:

Bruce C. Edwards
Victim/Witness Coordinator
U. S. Attorney's Office
P. O. Box 668
Cheyenne, WY 82003

The Impact of the Federal Sentencing Guidelines

A Summary

As a federal law enforcement official, understanding sentencing guidelines from the perspective of victims and witnesses is important. Many victim advocates believe that guidelines break new ground in the process of sentencing through formal recognition of victim harm and witness intimidation as a basis for consideration of either enhancement or mitigation of the sentence to be imposed.

The degree of victim harm, becomes under sentencing guidelines, a key determinate of the severity of the final sentence. Guidelines consider such factors as:

- Physical harm
- The extent of Psychological harm
- Vulnerability of the victim
- The amount of time the victim is unlawfully restrained
- The value of property taken
- Whether the offender possessed a firearm or other dangerous weapon

Guidelines have been drafted in a manner to evidence concern in the area of witness intimidation. A sentencing enhancement is provided for a defendant who "engages in conduct calculated to mislead or deceive authorities or those involved in a judicial proceeding, or otherwise willfully interferes with the disposition of criminal charges, in respect to the instant offense". Conduct which may provide a basis for applying this "adjustment" includes: threatening, intimidating, or otherwise unlawfully attempting to influence a codefendant, witness, or juror, directly or indirectly. In cases in which a significant further obstruction occurred during the investigation or prosecution of an obstruction offense itself, an upward departure may be warranted (e.g. where a witness to an obstruction offense is threatened during the course of the prosecution for the obstruction offense). This enhancement is an additional tool for Federal law enforcement in helping to reduce incidents of witness harassment and intimidations.

As part of the Crime Control Act of 1984, Congress created the U.S. Sentencing Commission as an independent body of the judicial branch. The Commission was charged with establishing sentencing policies and practices for the Federal criminal

justice system. The Commission was directed to produce guidelines that would avoid unwarranted sentencing disparities while retaining enough flexibility to permit individualized sentencing when called for by mitigating or aggravating circumstances. The Commission began its work in 1985 and guidelines have been in effect since November 1987.

Key provisions of the new system include the abolishment of parol and structured sentence enhancements. It is projected that these guidelines will significantly reduce "straight" probationary sentences. It is also projected that for serious crimes such as drug offenses and crimes against persons sentences of probation will dramatically decline. In addition, under these guidelines, average time served will increase from 15.8 months to 29.3 months.

The "scoring" of defendants under guidelines is the responsibility of the U.S. Probation Department. The Sentencing Reform Bill does not affect the parole eligibility of those defendants sentenced prior to November 1987. A copy of guideline scoresheets have been included in this section. Information supplied by you to the U.S. Probation officer is important in the final scoring of victim-related and obstruction adjustments. It is particularly important to maintain detailed case records of incidents of witness harassment. Even if new charges are not filed, an upward adjustment can be made under the guidelines. The key here is information; the kind of information that is a part of a complete and properly prepared victim impact statement.

In general, the guidelines benefit victims by:

- Abolishing parole
- Considering the harm and loss to the victim
- Helping to safeguard victims and witnesses from harassment

As a Federal law enforcement official you can assist by:

- Explaining how guidelines work
- Helping the victim prepare a complete impact statement
- Documenting any incidents of harassment
- Communicating with U.S. Probation about the impact of crime on the victim

BUREAU OF PRISONS - VICTIM/WITNESS NOTIFICATION GUIDELINES

Federal guidelines for fair treatment of crime victims and witnesses in the criminal justice system state that " law enforcement personnel should ensure that victims ... are given information on: stages in the criminal justice process of significance to a crime victim, and the manner in which information about such stages can be obtained." 18 USC 1512

One of the most critical stages in the criminal justice process from the perspective of many victims and witnesses of crime is post sentence, (after the defendant has been sentenced.)

Procedures have been developed by the Federal Bureau of Prisons, pursuant to the Victim Witness Protection Act of 1982, to provide advance notification of an inmate's release to victims and witnesses of crime who request such notification. A victim and/or witness of a serious crime who wants to be notified of a specific inmate's release must make the request to the United States Attorney in the district where the prosecution occurred.

Institution staff will promptly notify the victim and/or witness when the notification has been received. Staff will advise each approved victim or witness of their responsibility for notifying the Bureau of Prisons of any address and/or telephone number changes. The Bureau will then assume the responsibility for keeping the victim/witness notified of an inmate's release as follows:

- Transfer to a community treatment facility
- Furlough
- Release to the community
- Death
- Escape

In addition the requesting victim or witness will be notified of an inmate's parole eligibility status as well as given information concerning an inmate's pending in-person parole hearing.

Be certain that your victims and witnesses know that they can be provided with this important information and that they know the proper procedure by which they ensure that they will receive this service.

SECTION FOUR

The Victimization Experience

This section examines the victimization experience from both the perspective of law enforcement and the victims and witnesses with which they deal. Readings combine theory, research and practice as they pertain to both understanding and dealing with the victim in crisis.

In outline, readings consider the following:

- Victims and Law Enforcement - The Common Bond**
- The Bard Model: Crisis as a Violation of Self**
- Effective Intervention with Victims and Witnesses**
- A Summary of the Research**

LAW ENFORCEMENT AND CRIME VICTIMS: A COMMON BOND

Law enforcement and crime victims share a common bond of pain as the two major principals of the criminal justice system most effected by the direct impact of criminal victimization. Whether the victimization is violent or non-violent, it is you ...victim and protector who most directly experience its effects.

As law enforcement, you are victimized when in the course of your duties and responsibilities...you are shot or are required to shoot another...when you witness the shooting or death of someone from your community or even a fellow law enforcement officer...when you or a colleague are held hostage...when you or your family are threatened or harassed...when as in the first six months of 1987, 34 of you were feloniously killed

As law enforcement victims, you suffer from your victimization. Like the victims with which you deal, you may divorce or turn to alcohol or drugs for an answer. Exposed to multiple stresses, you have an increased risk of suffering from Post Traumatic Stress Disorder. And unlike some victims you are not given the opportunity to distance yourselves from the source of your trauma.

You are trained to collect facts and organize those facts in a manner that leads to the identification, apprehension and arrest of the offender. Following an arrest, "your" case must then be presented in a manner in which successful prosecution and conviction of that offender can occur.

The crime victims with which you deal, have parallel interests and concerns. Again, its "their" case, they want someone arrested, they want someone convicted. For victim and law enforcement alike "justice" most often translates to the basic variables of arrest and conviction.

In accomplishing your mutual goals of arrest and conviction, victim and investigator are often required to spend considerable time together discussing the events surrounding the crime. This period of time may include numerous interviews, discussions and reviews which over time can result in a kind of bonding between law enforcement and victim. A type of "shared" case ownership may develop. "My" case becomes "Our" case.

As the investigation develops your concerns may be different.

With law enforcement they are professional...with the victim...personal. But the emotions that surface as a result of these concerns are often the same. As victim and investigator only "you" directly experience the frustration that comes when "your" case investigation can't be solved. Or the alienation that comes when "your" case is not selected for prosecution.

For many law enforcement professionals repeated exposure to the physical and emotional hardships encountered by victims may result your being the victim of similar emotions...anger, cynicism, defensiveness, inappropriate emotional involvement...which all can lead to lowered self-esteem and reduced job satisfaction. Here the common bond becomes a bond of suffering.

Recent research indicates that a significant proportion of police officers suffer from Post Traumatic Stress Disorder as a result of direct personal exposure to the following sources of emotional trauma:

- Working with Child Abuse
- Working with Sexual Assault
- Working with Spouse Abuse

While not directly addressed in research, there is reason to believe that law enforcement suffers from the same "secondary injuries" which plague their victims:

- Injustice
- Indignities
- Isolation

An article entitled " Detective's Swan Song Plea For Victim's Rights" further explores this theme and has been included with materials in this section.

The Federal Victim Witness Protection Act provides both victim and law enforcement the opportunity to strengthen their common bond while ensuring that other key justice system officials are also fully aware of the real impact of crime. As law enforcement you start with the proper application of "psychological first-aid". By focusing first on the needs and concerns of "your" victims you can make an important differ-

ence. Next you make sure "your" victims are aware of programs to assist with their primary injuries. Programs like crimes compensation and victim assistance programs available at the local, state or federal level. Then you help with "your" secondary injuries by assisting with completion of victim impact statements, with employer or creditor intercession or by just helping to ensure that "your" victim is kept informed and allowed to actively participate to the degree that they desire to do so...as provided by law.

Because of "your" actions, "your" victims and witnesses know and understand their protections under the law and can help to influence the outcome of "your" case. If called upon to testify, "your" victim or witness is stronger, more emotional prepared because of the support provided by you, community assistance programs and federal victim witness coordinators. Stronger testimony can mean a better chance for conviction. After a trial or upon acceptance of a plea, when prosecutors and judges know the real impact of crime it often results in longer sentences. Judges often cite impact on the victim as the main reason for going outside the standard range of sentence defined by sentencing guidelines. This help each of you law enforcement and victim to achieve "your" goals of conviction and appropriate sentence.

By helping "your" victim and witness to be a strong, active participant in the justice system, you help reduce the primary and secondary injuries that you both suffer. This can change your common bond of pain to a common bond ...of healing.

The Bard Model: Crisis as a Violation of Self

THE NATURE OF CRISIS

Crisis may be interpreted in a variety of ways, but common to most definitions is the idea that it is a turning point in a person's life. It is a subjective reaction to a stressful life experience; one so affecting the stability of the individual that their ability to cope or function may be seriously impaired.

Crisis is of many kinds and degrees. An event that may be of crisis proportions for one person may have a lesser effect on another, for crisis is ultimately a personal experience. Nevertheless, without denying the personal measure of crisis that will vary from individual to individual, are there identifiable characteristics of crisis-producing events which can be used as criteria in recognizing crisis victims? Dr. Morton Bard in his extensive research on crisis has identified three important characteristics of stressful situations which result in a crisis reaction.

1. Suddenness: The event occurs without warning, without the opportunity for the individual to prepare psychologically. Stressful life events that are sudden tend to have a critical impact. When a situation comes on slowly, people are able to readjust their psychological defenses slowly in order to cope. The death of a loved one who has been dying over months or years, although mournful, usually has less crisis impact than a sudden unexpected death.

2. Arbitrariness: The event occurs without apparent reason or defies explanation. A situation that is arbitrary is usually experienced as a crisis. This is the sort of situation that seems unfair, capricious and highly selective. It seems to happen in a no-fault, "out of the blue" way, resulting in the "why me?" phenomenon. An out of control auto selectively striking one pedestrian in a crowd is an example of arbitrariness.

3. Unpredictability: Closely tied to arbitrariness and suddenness is unpredictability. In everyone's life there are normal and predictable stresses for which one can plan, i.e., marriage, a new job, examinations, elective surgery, etc. Events that can be anticipated lend themselves to planning so that some of the severity of the impact can be reduced. On the other hand, there are those crises which cannot be predicted. They are precipitated by wholly unforeseen events,

the unpredictability of which only serves to confound and complicate the stressful event--resulting in a crisis reaction.

In light of these criteria--suddenness, arbitrariness, and unpredictability--we can see that there are situations which may be considered as crisis inducing for any individual who experiences them. Natural disasters, fires, explosions, and serious accidents are all generally recognized as crisis-laden events. However, crime victimization--the focus of this text--while not usually seen in terms of crisis, is widely recognized as one of the most stressful events in life. Further examination reveals that it has all of the characteristics that make for crisis--suddenness, arbitrariness, and unpredictability. It is imperative then that we recognize that every crime victim has, to a greater or lesser extent, experienced a crisis.

THE "EXTENT" OF CRISIS--A MATTER OF SELF

In The Crime Victim's Book, the authors, Dr. Morton Bard and Dawn Sangrey, identify a factor of crisis common and perhaps unique to crime victims. This factor is described by the authors as "violation" and referred to as the "invisible wound." Moreover, the victim's sense of violation can be measured in terms of the degree to which they feel their sense of "self" has been invaded by the acts of the criminal (s).

Mindful that the level of crisis experienced by any crime victim is uniquely determined by that victim--what seems a minor incident to one victim may be a personal catastrophe for another--we may nevertheless anticipate that the level of crisis inherent in a crime is directly proportionate or positively correlated to the degree or level of invasion (including attempts) of "self" as perceived by the victim. In other words, we can reasonably anticipate that the level of crisis felt by a woman whose pocketbook is "snatched" would be less than if she were beaten and robbed, which in turn would be less than if she were raped. We should be mindful that as referred to here, "self" is an abstract term sometimes called ego. It is the sum of what and who a person feels he or she is. A large part of the concept of self involves the body and the way one feels about the body, but it also includes items which are extensions of the self, e.g., clothing, automobile, homes, personal accoutrements, etc. Therefore, a sense or feeling of an invasion of self does not require that a crime be physically committed against a person,

nor does it even have to be in the victim's presence. So it is that we frequently hear victims express their sense of violation over such crimes as burglary or auto theft, when in fact they may have never encountered the criminal.

If then we view crimes in terms of the "invasion of self" inherent or reasonably attributable to each crime, a continuum emerges by which we can begin to gauge the potential level of crisis involved, and with this insight be better prepared to assist the victim (s).

PICKPOCKETING AND PURSE SNATCHING

In pickpocketing and purse snatching, the target of the criminal is some extension of the victim's self--the money, the credit cards, the wallet. The victim loses these symbols of self and experiences the violation of trust and autonomy that is at the center of every personal crime. A person expects to be able to walk down the street without having his or her property stolen. When a wallet or purse is taken, the victim suffers a rude reminder of vulnerability. Usually these crimes involve only momentary contact, but they are still personal affronts.

AUTO THEFT

The place of auto theft on the continuum depends upon the significance of the car in the victim's life. For some people their car is a more important extension of self than their home. Where alternative transportation is not available, the loss of an automobile becomes a major disruption, and its impact is intensified by the victim's sense of being stranded. One couple whose car was stolen found that all of their normal routines were affected.

"We really loved that car, you know. It was our first car, the one we got right after we were married, and it had taken us everywhere--to school, to work, on our vacations, everywhere. And then suddenly it was gone. We had to ask people to take us to the grocery store. We had to walk to the laundromat with all our piles of laundry. And whenever we went out anywhere, we had to go with other people and we had to do what they wanted to do. Not that they didn't ask us what we wanted to do, but somebody else always had the last

word, and that wears on you after a while. There was no way to get to one of my jobs without a car, so I was getting rides from friends, but I would have quit that job if they hadn't found the car."

BURGLARY

Burglary also involves extensions of the self, but it is more grievous than purse snatching because the offender has violated the home of the victim. Most people feel their homes to be places of refuge and safety, shelters from the dangerous outside. We breathe easier behind our own familiar doors. And our homes are our nest, filled with the people and the things we love. The burglar intrudes on this security and privacy. Burglars quite literally threaten us where we live.

Burglary victims often feel this intrusion much more deeply than the property loss they suffer. In one case the burglars went through all of the personal papers in the house. The father of the family couldn't get over his rage about this invasion of their privacy; "I feel like they know about me. They picked through my whole life. When I saw the papers thrown all over, I thought: 'Who's been rummaging around in my life?'" Another victim of burglary was more touched by the loss of her sanctuary: "You think of your house as impregnable, you know, and you find that it isn't like that at all. Somebody can easily get in if they want to."

ROBBERY

Pickpocketing, purse snatching, auto theft, and burglary are crimes of stealth. These violations are not accompanied by overt threats of physical violence. In robbery, however, another element is added to the violation. The offender threatens the victim with physical harm. The victim encounters the robber face to face; a person who is robbed is immediately aware of a total loss of control. Robbers confront their victims with an explicit threat: "Your money or your life." The loss of autonomy is complete. If a weapon is involved, this loss is even more acute.

ROBBERY WITH ASSAULT

In robbery with assault the threat is carried out: The victim is physically attacked. Victims of assault experience the terrible fear of losing their lives and the humiliation

of being unable to defend themselves. Their bodies are injured so they also carry a painful physical reminder of their loss of autonomy and the deep violation of their trust. These emotional wounds are mirrored in their physical wounds, the concrete evidence that they could not take care of themselves.

SEXUAL ASSAULT

Sexual assault involves further intensification--the privacy of the victim's inner body is violated. "In the crime of rape, the victim is not only deprived of autonomy and control, experiencing manipulation and often injury to the 'envelope' of the self, but also intrusion of inner space, the most sacred and most private repository of the self. It does not matter which bodily orifice is breached. Symbolically they are much the same and have, so far as the victim is concerned, the asexual significance that forceful access has been provided to the innermost source of the ego."

Rape victims suffer the penultimate violation. Short of being killed, there is no greater insult to the self. Extensions of the self are violated--the victim's clothing is disarrayed, perhaps torn. The external self, the physical body, is handled and injured. The site of the inner self, the interior body space, is also violated. Victims of rape rarely talk about this inner violation. It is simply too painful. But many of them do mention what they have seen so clearly on the rapist's face. "I knew he was going to kill me. I saw it in his eyes."

The rapist uses sexual acts to humiliate and degrade the victim, wrenching these acts out of their usual meaning as expressions of desire and love. The objective in rape is to violate, not to gratify or be sexually gratified. But people are so accustomed to thinking of sex as gratifying that many cannot separate any sexual act from positive feelings. Some grisly jokes result from this confusion: "Why didn't she just lie back and enjoy it?" But force is the antithesis of pleasure.

Rape victims commonly suffer from terrible self-doubt because they cannot separate their feelings about sex from the violence done to them. Rape often goes unreported to the police because the victim is so ashamed. In cases in which the victim is a man--a growing problem among sex crimes--the victim's shame may be tinged with the fear of being regarded as a homosexual. Both men and women victims are often afraid

that they will be accused of seducing the rapist, in spite of the fact that seduction or anything else even remotely sexy was entirely absent from their brutal experience.

The crime of rape has become a powerful metaphor for the violation that victims of other crimes experience. One man who had been robbed and beaten in his apartment said that he understood what it must be like to be raped. "If a woman talked to me about being raped, she'd never believe it if I said it to her, but I know what it's like. My home was taken over; my body was taken over; I was violated; I mean I was literally raped. It's an incredible feeling of impotence, when your body is in somebody else's total control, and you're the slave. It's an incredible outrage."

HOMICIDE

Homicide is the ultimate violation; the destruction of the self. The homicide victim's life is abruptly and violently terminated. Those who are left, the loved ones of the dead person and anyone who witnessed the death, have also been violated. These survivor-victims are confronted with their own mortality, with proof positive that they may, at any moment and quite without warning, be deprived of their lives. This shock has deep and powerful repercussions.

The death of a loved one is always difficult to handle. When death is sudden, the survivors must also cope with the surprise of an unexpected loss. In homicide, there is an additional, cruel dimension: the victim has been deliberately destroyed in a willful and malicious act. The members of Kevin Johnson's family describe this aspect of their loss as central to their inability to recover from his murder.

"My mother said, "If he had been sick or hit by a car, then maybe I could accept it. But they stole him from me." And I felt that she hit it right on the head. Because it's not so much that he's dead-- it's how he died. Someone took him, with no more thought than if they were taking a pack of cigarettes. If a person dies of a heart attack, or whatever, you grieve, but in time it heals. You remember the good things. But here the last thing you remember is that he was killed by someone who didn't even know him."

POST-TRAUMATIC STRESS DISORDER

In recent years the American Psychiatric Association has recognized this sequence of reactions in victims, and also the fact that these symptoms do not always appear at the time of the trauma, or even immediately thereafter. Recognition of this emotional distress syndrome resulted in the publication of criteria for diagnosis in the APA's Diagnostic and Statistical Manual (DSM 111) - "Post-Traumatic Stress Disorder". The following is an excerpt from the published criteria.

- A. A recognized stressor that would be expected to evoke significant symptoms of distress in almost all individuals.
- B. Reexperience the traumatic event either by
 - 1. Recurrent and intrusive recollections of the event
 - 2. Recurrent dreams of the event
 - 3. Suddenly acting or feeling as if the traumatic event were occurring because of an association with an environment or notion stimulus
- C. Numbing of responsiveness to, or involvement with, the external world, beginning some time after the traumatic event, as shown by either:
 - 1. Markedly diminished interest in one or most significant activities
 - 2. Feelings of detachment or estrangement from others
 - 3. Marked constriction of effective responses
- D. At least two of the following -- not present prior to the traumatic event.
 - 1. Hyper-alertness or exaggerated startle response
 - 2. Initial, middle, or terminal sleep disturbance
 - 3. Guilt about surviving when others have not, or about behavior required to achieve survival

4. Memory trouble or trouble concentrating
5. Avoidance of activities that arouse recollection of the traumatic event
6. Intensification of symptoms by exposure to events that symbolize or recall the traumatic event

Effective Intervention with Victims and Witnesses

Law Enforcement personnel are usually well prepared to handle situations where there is obvious physical injury to the victim. But in dealing with a victim's psychological crisis, officers and investigators are sometimes armed with little more than instincts. Recognizing this, the President's Task Force on Victims of Crime strongly recommended that law enforcement agencies provide recruit and in-service training in "Psychological First Aid" to help victims deal with the emotional trauma of their victimization.

Why it is Important to Deal with Victims' Emotions ?

As a result of any crime, there exists a natural " convergence of needs and expectations" between the victim(s) and the police. Each needs something that the other has and expects the other to provide. Victims need and expect assistance and support from law enforcement in order to effectively deal with the emotional and/or physical trauma inflicted by the criminal. Quite simply most are individuals who have just been placed in a state of crisis.

The police need and expect accurate and thorough information from the victim. Information with which to make a case and arrest a suspect. When a victim or witnesses is in a state of crisis their emotions often serve as roadblocks between you and the information you need to obtain. You need to move these emotional roadblocks out of the way in order to get at the information you need.

The way you do that is by focusing first on the victim and by attending first to their needs. Just as it is important to apply appropriate first aid techniques to an open wound following a shooting, for many victims it is equally important to apply " Psychological First Aid" to the emotional wounds they have just received.

How can we apply " psychological first aid " ?

What is a simple process by which you as Federal law enforcement personnel can provide appropriate " Psychological First Aid " to victims and witnesses of crime. The following are three suggested phases which to organize your assistance to victims and witnesses of crime:

Note: While the phases of Psychological First Aid are progressive in nature, it is not intended to imply that this "order" must be followed in successive steps. While each of the phases are important and should, whenever plausible, be addressed, it is better to view these phases in terms of the immediate needs of the victim, followed by due consideration for timely information (broadcasting a "lookout"). Remember, these are phases AROUND WHICH law enforcement should organize their assistance to victims.

The stages are described in a manner most often encountered in first response situations, with the victim and witness in the impact stage of dealing with their crisis. The emphasis in these situations is on crisis stabilization, on restoring the victim's sense of safety and security. Most investigators will intervene later when the victim is in "recoil". The need for "psychological First-aid" remains important. Remember that the emotional roadblocks that separate you from the information that you need can change as the victim's perspective on the crisis changes. An investigator properly applying the tools of "psychological first-aid" can first identify, then help to remove these roadblocks and get the information that he or she needs...accurate information...obtained in a timely manner.

SAFETY AND SECURITY--the victim's immediate need for a sense of safety and security must be provided for. This phase is designed to reduce or remove the immediate "threat to self" experienced by the victim

1. Ask the basic question: "Are you all right?"
2. Say the obvious, "You're safe now", to a frightened victim or witness.
3. Suggest that a friend be called.

VENTILATION AND VALIDATION--this process allows the victim and the officer to determine the nature of the victim's emotions and assists the victim in dealing with these same emotions.

1. Listen carefully to the victim's response when asked, "Are you all right". It will often reveal the

emotion(s) that the victim is dealing with, and which you must deal with in order to reduce the "emotional roadblock" to the information that you need.

2. Remain non-judgmental to the victim's feelings. They may not make sense, they may be abusive (anger), they may be childlike, (regression) but they are the reflection of the victim's "subjective reality".
3. Recognize that by expressing concern you help to calm the victim or witness.
4. Simple statements like, "I'm sorry that this happened", and "I'm glad that you're all right", can be helpful. Avoid saying that you know how they (the victim) feel, as this may be received as an insincere, pacifying remark indicative of a lack of interest. Furthermore, it tends to discourage victims from expressing their emotions (necessary to lessen the emotional roadblock between you and the information you seek).
5. Be ready to guide the victim through a short period of ventilation letting the victim say how they feel while talking about what happened.
6. Perhaps the fastest and most effective calming technique is "VALIDATION". Let the victim know that it is normal and that they have every reason to be angry, scared, or upset after a crime.

PREDICTION, PREPARATION AND PARTICIPATION -- this assists the reparative process by returning to the victim their sense of control or autonomy and reestablishing a sense of trust in others.

1. PREDICTION - Before the crisis of victimization, the world was orderly and predictable. Crime has changed all of that for the victim. Our efforts during this stage of assistance should be aimed at returning a sense of control, an ordering and a predictability to the victim's world.

Let the victim know what is going to happen or what is likely to happen. Predictability is important at this stage, do nothing to knowingly mislead the victim. As a law enforcement officer or investigator, you are someone the victim NEEDS to trust. Victims will frequently inquire about the chances of recovering stolen property or the chance of the criminal being arrested. Be tactful...but candid.

DO NOT DECEIVE!

2. PREPARATION---This involves getting the victim emotionally ready to deal with what you have "predicted", the situations and emotions that will likely accompany the victimization experience.
 - a. Help prepare the victim or witness for what will happen next.
 - b. Help victims regain a sense of control by asking simple questions that require a decision, such as, "Is it all right if we sit here?"
 - c. Involve the victim, within legal, ethical, and procedural parameters, in the investigation and preparation of the case.

Seek their opinions, and thoughts, and tell them that you value their information and assistance.

- d. Recognize that many victims will blame themselves for what happened. Help the victim focus blame on the criminal.
- e. Know the programs in your community that can assist and most importantly, be sure to REFER your victim or witness to these programs.

3. PARTICIPATION -- This involves a process which can further enhance the victim's sense of control.

Recognize that the level of the victim's participation will depend upon several factors:

- Legal, ethical and procedural considerations
- The nature of the investigation
- The physical, mental and emotional state of the victim

Inform your victims and witnesses of their right to be active participants in the criminal justice system. To exercise their rights, victims and witnesses first need to know that those rights exist...THAT'S YOUR JOB!

Let them know that Federal law allows victims to participate by expressing the impact of the crime through Victim Impact Statements,

consultations with U.S. Attorneys,
interaction with Federal
Victim-Witness coordinators,
personal court appearance prior to
the imposition of sentence,
communication with parole and
corrections officials.

CRIME VICTIMS AND WITNESSES - A SUMMARY OF RESEARCH

The following is a review of some of the significant findings of the National Institute of Justice's research on victims and witnesses of crime. This research helps to underscore the importance of the victim/witness in the overall criminal case process. It also serves to emphasize the importance of positive and effective police victim interaction.

THE PSYCHOLOGICAL EFFECTS OF VICTIMIZATION

Only recently have we come to realize that crime victims experience crisis reactions similar to those experienced by victims of war, natural disasters, and catastrophic illness.

Early research in this area, conducted in 1975, focused on victim experiences both with crime and with the criminal justice system. The findings had a significant impact on the development of early victim/witness assistance programs. Researchers at Marquette University interviewed 3,000 victims and witnesses from cases active in Milwaukee County's court system and 1,600 persons identified as victims of serious crimes by a previous National Crime Survey. Researchers found mental or emotional suffering to be the most frequent problem expressed by victims, while time and income loss posed the greatest difficulties for victims involved in the court process. The fear and emotional distress experienced by victims was found to often extend to the victims' family or friends.

This important study introduced the concept of "secondary victimization" to characterize the distress experienced by the family and friends of crime victims. In 1982 a research team pursuing this theme questioned 240 New York City victims. They found that while few had sought assistance from organizations, virtually all had turned for help to friends, neighbors or family. Supporters were then contacted and reported being glad to help. However, many said that their own fears about crime had been heightened by their involvement with the victim.

The study also showed that the effects of crime hit hardest upon the poor. Psychological distress and crime related problems were more common among the less affluent and less educated, and those differences persisted at least up to four months after the crime.

An earlier study revealed a surprising finding. Nearly as many burglary as robbery victims underwent a "crisis reaction" during the weeks following their victimization. In fact according to researchers at the American Institutes for Research, the impact of crime on victims' emotions and everyday behaviors was actually greater for burglary than for robbery victims.

This early research was supplemented by the work of Drs. Morton Bard and Martin Symonds, both psychologists with the New York City Police Department. Their pioneering work with victims has served as the foundation for our understanding of the stages of crisis experienced by victims of crime. It has also emphasized the importance of positive police victim interaction in order to prevent the occurrence of "the second victimization".

THE VICTIM AND WITNESS IN THE CRIMINAL JUSTICE SYSTEM

For many years studies have continued to show that the victim/witness is crucial in helping police apprehend criminals. Research by the Rand Corporation in 1975 reported that information supplied by the victim to the first police officer responding to a crime is more important than any follow-up investigative work.

A 1984 study by the Police Executive Research Forum underscored the importance of the actions of the victim/witness. The research found that the time it took citizens to call the police affected the probability of on-scene arrests to a greater extent than the time it took police to respond to the call. Earlier research by the Institute for Law and Social Research reported that a larger number of citizen witnesses in a case, as distinguished from police or professional witnesses, increased the chances of conviction.

Victims are more likely to report a crime if they think the police will respond effectively. And victim satisfaction with police response seems to be determined primarily with predictability rather than the speed of the police response. Victims will accept a delayed response in nonemergency cases if they are told in advance when to expect the police

CONSIDERATION OF CRIME VICTIM IMPACT

Several major research projects have focused on the idea that a crime's effect on the victim ought to play a larger role in the sentencing decision.

A 1984 study by the Institute for Law and Social Research (INSLAW) sought to understand how criminal justice officials learn about victim harm, how victim harm affects their decisions about cases, and how victims respond to their experiences with the criminal justice system. The researchers interviewed police, prosecutors, judges, and victims at eight sites chosen to include providers of both extensive and limited services to victims of crime.

The study found that of three variables examined (injury, psychological harm, and property stolen) only victim injury appeared to be important in prosecutors' screening decisions. None of the three factors was important in the final determination of sentence.

The study also found that the majority of victims felt that being better informed, punishing the defendant more harshly, and providing more social services were important to increasing their satisfaction. Sites with full - service victim assistance programs were found to have the highest levels of victim satisfaction. In addition, officials from those sites were more influenced by victim-related factors than practitioners elsewhere.

In two studies of victim participation and attendance at sentencing, researchers found evidence that those victims who did attend were more satisfied with the case outcome than those who did not.

The effects of the provisions of California's Victim Bill of Rights on victims and criminal justice personnel were examined in a 1983 NIJ grant to the University of the Pacific's McGeorge Law School. The study found that inadequate notification procedures were a major problem: LESS THAN HALF THE VICTIMS SAMPLED WERE AWARE THAT THEY HAD THE RIGHT TO APPEAR AND SPEAK AT SENTENCING.

Most victims said the right to speak at hearings was important, but most also indicated that they would need more information, more support, and some legal assistance to be able to exercise this right effectively. Victims also wanted information about the defendant as much as they desired the legal right to participate in the case.

UNRESOLVED RESEARCH ISSUES

The following represent specific questions that might be

addressed in future research:

- Can police officers, whose behavior seems to significantly shape how victims react to their experience, be trained successfully in techniques to alleviate victims' trauma?
- Do programs designed to aid victims promote greater willingness of victims to cooperate with criminal justice officials?
- Do victims view the opportunity to make impact statements as meaningful involvement in the criminal justice process?
- Do impact statements increase overall satisfaction with the criminal justice system?
- Does the opportunity to make such a statement promote the healing of psychological wounds?
- Can effective programs be developed to assist law enforcement personnel and their families in dealing with the effects of victimization?
- What is the most appropriate role and most effective model for law enforcement based victim assistance?

SECTION FIVE

Specialized Victim - Witness Concerns

Summary

This section of readings changes the primary focus of the student from the victim to the witness. It addresses the needs that all witnesses have including those who are also victims. Students will explore the basic elements of effective communication. They will identify the unique concerns of children, the elderly and the physically or developmentally disabled. Finally, students will explore the problems often encountered by witnesses with a special emphasis on the issue of witness intimidation.

In outline, readings in this section consider:

- Effective Communication with Victims and Witnesses
- Interviewing the Child Witness
- Interviewing the Elderly
- Concerns of the Physically or Developmentally Disabled Victim or Witness
- The Special Concerns of Witnesses to Crime
- Witness Intimidation - Combating This Growing Problem

EFFECTIVE COMMUNICATION WITH VICTIMS AND WITNESSES

During your career as a law enforcement officer or investigator, you will learn a wide variety of techniques which will assist you in attaining your goals with crime victims and witnesses. This section attempts to summarize the basics while adding techniques commonly used in crisis intervention by psychologists and other behavioral scientists. Effectively utilizing these techniques as well as others can help you to make an important difference in the lives of victims and witnesses of crime .

NONVERBAL TECHNIQUES

It is common knowledge that the nonverbal aspects of communication are often more important than the verbal. That is, what is said is less important than how it is said. The reason for this is that the nonverbals indicate exactly the interpretation to be put upon the words which are uttered. We rarely examine exactly what factors in our nonverbal communication are most important. The following list outlines some of the most important features of nonverbal communication and indicates how they may be used to help victims.

1. Eye contact. This behavior is important for communicating that one is listening and is concerned. Victims will often avoid eye contact, but the officer who keeps looking directly at the victim's eyes will eventually establish contact. The result is usually an improvement in the victim's response to the officer, for eye contact usually communicates encouragement and support. On the other hand, the officer who is looking at a notebook or somewhere else may inadvertently communicate disinterest or impatience. Looking up to make eye contact after writing a statement and while asking the next question will often help establish better communication between the officer and the victim.

2. Body posture. When we are sympathetically listening or even attentive, we tend to incline our heads (and sometimes the whole upper part or our bodies) toward the speaker. Standing or sitting with the head in an exactly upright position usually indicates that we are being impersonal. Leaning back from the speaker frequently indicates disbelief or skepticism. When interviewing victims, it is a good idea to monitor our body posture to determine what is being communicated. This is less important when the officer is speaking, for the words will compensate somewhat for any body messages, but it is very important when the victim is speaking and can

gauge the officer's responses and attitude only from the nonverbal messages.

3. Distance. There is usually an optimal distance to maintain while talking to other people. If we stands too close or too far away, the conversation is likely to be uncomfortable. There is, however a catch in the fact that the distance varies from person - to - person and across situations. Generally, the closer we stands the more we express intimacy. The greater the distance, the greater the feeling of formality. A police officer must learn to judge by the victim's responses whether the distance is too great or too small. If a victim begins to edge away, the officer should back up a half step; if the victim moves forward, the officer should stand fast until the victim has reached a comfortable place.

4. Touching. People generally feel more comforted when someone gives them a supporting hand or arm. Some victims, however, may be threatened if an officer reaches out to them. This is particularly true of victims of sexual assaults. One way out of this dilemma is for the officer to make it possible for the victim to initiate touching and accept such an initiation if it occurs. (It can be devastating for a rape victim to touch a police officer's hand and have it jerked away.) We can facilitate such initiation by putting our hand on a table between ourselves and the victim or by standing close enough to allow touching. Alternatively, an officer might make a gesture of offering a hand and allowing the victim to take it or not.

5. Vocalization. This term refers to the volume, speed and pacing of speech. It is generally a good idea to speak to victims in a soft and slow voice and allowing a few seconds to lapse between questions. People who are upset tend to speak loudly and quickly. The officer's soft, slow voice will lead them to speak in a similar fashion. People who hear themselves speaking in this manner are likely to be better able to control their own emotions than people who hear themselves talking loudly and quickly. Pacing questions slowly gives an impression of patience and concern. The quick firing of questions leads to an impression of impatience and adds a note of interrogation, which can lead the victim to feel blamed.

VERBAL TECHNIQUES

The importance of nonverbal behaviors must not be taken to mean that what is said is not important. There are particular kinds of statements and inquiries that greatly aid the victim in coping with crisis.

1. Active listening. When another person is talking, we may simply be present or we may communicate that we are interested in hearing what is being said. The latter process is called "active listening." Some of the main features of active listening are listed below:

- a. Clarification. We clarify when we interrupt the speaker to ask a question about what was just said. This indicates that we have been listening and that the details are important to us. It is best to clarify when the person has finished a segment of the story and not to interrupt repeatedly to ask about details. For example, when a mugging victim has finished telling about being knocked to the ground and is ready to begin describing what has been stolen, one might clarify by asking, "I didn't understand. About what time was this?"
- b. Summarization. When a person has completed a statement, we can show interest by summarizing what has been said so far. The summary need not be long. Its purpose is to demonstrate to the victim that we have been following what was said. For example, an officer might say to the hypothetical mugging victim just mentioned, "Let me see if I have this straight -- You were near the mall, walking home from work when two men approached you suddenly, knocked you to the sidewalk and grabbed your purse -- Do I have it right?"
- c. Allowing silence. Paradoxically, allowing silence to last is a way of showing that we are listening. Victims often are confused and need time to collect their thoughts. The officer who lets a silence last after a question is asked, demonstrates to the victim an awareness of this fact. The tendency is to rephrase a question if it is not immediately answered, and this can often be confusing to a victim, especially if he or she is somewhat anxious that the police are going to be impatient.

2. Stating the obvious. Victims are usually confused and thinking slowly. In many respects, their emotional level

has reverted to that of children in that things are not clear to them. Therefore, the police officer does well to make obvious statements to reassure the victim. Stating, "I am here to help you," "You are safe now," or "I can see that this has been an upsetting experience to you," may seem condescending but really is important for the victim to hear.

3. Personalized statements. Police officers do not differ from other people in large organizations in their tendency to make impersonal statements on the order of, "It's probably a good idea for you to see a doctor." When dealing with victims, it is more effective to personalize statements by prefacing them with, "I feel," or "I think." "I think it's a good idea for you to see a doctor" conveys personal concern and involvement.

4. "Mind reading." Police officers often recognize similarities between victims and this recognition permits them know what to anticipate. Expressing this to the victim can often help the victim by identifying a response or feeling as common and not a cause for alarm. For example, an officer might say, "I know burglary victims often wonder whether there is something special about their house that led the burglars to pick on them -- I can tell you that burglars simply go where they think valuables are and where it looks like they can get in." Mind-reading often helps anticipate fears which the victim can't voice and lets the officer initiate reassurance without the victim asking for it. For example, an officer might say, "I wouldn't worry about them coming back to harm you -- victims often worry about that, but most muggers simply get what there is to get and then vanish."

5. Sharing feelings. Police officers are correctly taught to be impartial. Unfortunately, as noted earlier, they often translate "impartial" into "impersonal". When dealing with victims, a personal expression of concern, such as, "I'm sorry this happened," can be very comforting to the victim. Some situations, especially sex crimes, are a source of discomfort in the officer. Rather than try to conceal the emotions, the officer does well to let the victim know that the emotions are present. Nonverbal behaviors will betray that the officer is uncomfortable and, rather than have the discomfort misinterpreted by the victim, the officer should acknowledge them. The officer who is uncomfortable in asking a rape victim about the crime might say, "I'm going to have to ask you a few questions about exactly what happened...you will probably be a little uncomfortable when I get to them,

and so will I...but there aren't very many, and I'm not going to be asking a lot of details."

INTERVIEWING THE CHILD VICTIM/WITNESS

As Federal law enforcement professionals there is another category of victim and witness that you will come in contact with during your career that like the elderly will require special considerations...that category is the child victim or child witness. You need to know how to effectively interview child victims and witness in order to insure the information and continued cooperation you need at the same time you assist the child in dealing with the trauma they have experienced or witnessed. The following has been prepared to help you accomplish that important task:

- INTERVIEWING THE CHILD - PRE-INTERVIEW CONSIDERATIONS

- Consider the nature of the violence or trauma experienced by the child
- Talk with parents, representatives of other agencies, anyone who has talked with the child about what happened
- Determine how the child is reacting to what happened
- Determine the child's age and developmental skills
- Determine any handicaps, verbal or behavioral problems
- Assess the parent's reaction to their child's situation
- Consider your agencies policies as they pertain to interviewing the child victim or witness

When conducting interviews it is particularly important to recognize and consider the child's reactions to what they have experienced.

- A CHILD'S REACTIONS TO CRIME

- Fear of not being believed
- Fear of being blamed

- Fear of being rejected by their family
- Fears about the perpetrator
- Guilt or anxiety about their involvement

Of equal importance to a successful interview with a child is the interview setting.

- THE CHILD VICTIM OR WITNESS - INTERVIEW SETTING

- The setting should be neutral and private
- Activities like toys, paper, crayons and pencils should be available
- There should be room for the child to move around
- If possible the room should contain child size furniture
- The setting should be free from interruption or distraction

The investigator, having first considered the child's perspective, having reviewed pre-interview considerations and having readied the setting where the interview is to take place is now ready to proceed to the interview. Remember, the fewer people who interview the child the better.

- THE CHILD VICTIM OR WITNESS - BEGINNING THE INTERVIEW

- Introduce yourself and explain why you are here
- Take some time to get to know the child. Allow the child to feel comfortable with you
- Talk about friends , family, school, anything of interest to the child

- Think about the child's level of skill, language and understanding of concepts so you can talk at their level
- Remember that a child's attention span is generally limited to 15 minutes

- THE CHILD VICTIM OR WITNESS - THE INTERVIEW

- Talk to the child about his/her fears about discussing the event
- Begin with open-ended statements and questions
- Be careful not to ask suggestive questions, such as " Did he have a brown or black mustache?", When the child has not indicated the presence of facial hair
- Recognize that children may have difficulty answering questions about peripheral detail
- Avoid the use of words or phrases that will confuse the child
- Avoid taking notes if possible
- Consider letting the child use drawings to express what happened

- THE CHILD VICTIM OR WITNESS - ENDING THE INTERVIEW

- Thank the child and praise him or her for assisting
 - Reaffirm your concern about what happened
 - Reaffirm that the child is not to blame...
 - Give the child a chance to ask questions or express concerns
 - If concerns or fears are expressed, deal with them
 - Explain to the child what will happen next
-

- THE CHILD VICTIM OR WITNESS - POST INTERVIEW

- Discuss the interview with parents. Again explain to them what will come next
 - Encourage the parents to return to a normal routine
 - Let the parents know it is a good idea not to separate from the child
 - Parents should encourage the child to talk about the event
A story type approach may help
 - Reenacting the event through drawings can also be helpful
-

CONCLUSION:

As a Federal law enforcement investigator it is important that you learn about the special concerns of the child victims and witnesses with which you deal. This knowledge can assist you in obtaining more accurate information at the same time it serves to assist the child victim or witness in recovering from the emotional hardships that often accompany a criminal incident. As with all victims and witnesses this translates to first understanding the event from their perspective, providing the appropriate "psychological first-aid" and finally preparing the victim or witness to understand "what comes next."

THE ELDERLY VICTIM/WITNESS - AN INTRODUCTION

Older people are more vulnerable to the impact of crime than many other age groups. They often suffer more extreme financial hardship, more serious physical injury, and more intense psychological distress.

The financial impact of property damage or monetary loss is exacerbated by the fact that most elderly people live on fixed incomes with little economic margin for replacing such losses.

Physical injury may result in critical consequences because the elderly may already have suffered physical decline as a result of aging. Older people are often victims of chronic illness, reduced mobility, hearing and sight loss. Even a minor physical injury can cause hospitalization or removal to a nursing home. That relocation alone can cause serious illness or even death.

The shock of crime may be the final blow in a period of stress brought on by retirement, the death of friends and relatives, illness, financial strain, etc. While some elderly people have developed strong coping skills which help them to deal with increasing trauma, many are left feeling terminally helpless by a criminal victimization, a final stressor precipitating a major life crisis.

For these reasons, Federal law enforcement should be particularly aware of the high risk of crisis in elderly victims. Elderly victims of larceny, burglary, vandalism, and assault often face as severe a crisis reaction as do victims of sexual assault and even homicide survivors. The following guidelines may assist you in dealing with the unique problems of elderly victims.

ELDERLY VICTIM STABILIZATION

1. The assessment of physical injury or physiological reaction should take into account existing medical conditions. Inquire about previous illnesses and current medications that the victim may be taking.

2. Never appear to disbelieve an elderly victim. Even if you think he is confused, respond sympathetically and listen to the story. A common misunderstanding about the elderly is that most are senile. They are not. They may have difficulty communicating or they (like many other victims) may become depressed or confused, but most older people are credible and conscientious witnesses. To react condescendingly or appear patronizing can cause the elderly victim fear, frustration and anger - at you.

3. It is very important to the elderly victim to have a "support system" of family or friends near by. Realize that the elderly's support system is often in friends and not in family. One should not assume that a nearest relative be called unless the victim wishes it. A roommate or a neighbor may be the source of strength the elderly person needs. Family members are sometimes hostile parties.

4. It is often important to arrange for immediate economic assistance to the elderly victim. Such assistance may be offered as a loan with no interest and no fixed due date. Many older people do not want to accept welfare or to feel they cannot take care of themselves. At the same time, the fact that many live on fixed incomes means that they may need some immediate help to buy groceries or medication.

5. Be aware that when you help an older victim, you may end up dealing with many geriatric problems as well as the crime problems. The elderly person may need health care, homemaker services, transportation services, etc. Know proper referrals or be able to offer concrete help if the victim raises these issues.

6. Be alert to signs of abuse or neglect of elderly persons. There is growing evidence that many elderly people are subject to violence from intimates--sons, daughters, caretakers, etc. Some elderly may seek help after suffering a victimization by a stranger but find it difficult to report or seek help over victimizations by intimates.

7. Some elderly victims will suffer mental disabilities.

They will not be able to remember the assault or to communicate their anguish. Protective services may be an appropriate referral in many states. Since so many symptoms of mental disability in older people are caused by reversible medical, nutritional, and psychological conditions, preserving the older person's independence at the same time as helping him to recover from an attack is essential to recovery.

Concerns of the Physically or Developmentally Disabled Victim or Witness

Visual Impairments

Visual disabilities affect millions of persons. According to figures presented by the American Foundation for the Blind Inc., over 11 million Americans suffer from some kind of visual impairment. Approximately, 10 percent of these individuals are considered to be severely impaired.

Visual impairments can mean that overall sight is not affected, that only the edges of a part of the visual field is obscured or that there is no central vision, depending upon the type of impairment. Blindness that occurs at birth is called congenital, and blindness that occurs at some point later in life is described as adventitious blindness.

For the visually handicapped person, the issue of mobility is a primary concern. For visually disabled victims and witnesses who participate in the criminal justice system, it is important that steps be taken to familiarize them with the new surroundings. The visually impaired victim or witness may need a travel aid, usually a cane, guide dog, or sighted escort. Law enforcement officials should recognize the necessity of these aids and make every effort to insure that the necessary accommodations are made.

When dealing with a visually impaired person, it is important to understand that many do have some vision. They might be able to distinguish forms or shapes, or see a very limited distance away. This means that they may be able to provide some visual information or testimony. An officer should ask a person what the extent of the disability is before assuming that a victim or witness is totally blind.

Hearing Impairments

Ability to communicate is an essential ingredient of a successful law enforcement investigation. If a hearing impairment creates barriers to effective communication, law enforcement officers must find ways to overcome this problem.

According to U.S. Census reports, an estimated 13 million Americans have impaired hearing, including 2 million people who are completely deaf and 6 million who suffer significant

hearing loss. The remaining 5 million persons have a slight hearing loss. Many impairments can be corrected by hearing aids or behavioral adjustments.

Deafness is not a readily observable disability, so it is important for officers to be able to recognize a person who has a hearing impairment. When it is discovered that the person has a hearing disability, the officer should make adjustments in the communication process to overcome the disability. For the profoundly deaf, sign language or lipreading may be used by the disabled person. A slightly deaf person may improve his hearing ability through a hearing aid, or readjustment in the speech pattern of the person with whom they are communicating.

Misunderstanding or lack of communication occurs with significant frequency in conversations between person with no hearing impairments. To overcome the special problems with the hearing impaired, patience and understanding are needed.

A deaf person generally exhibits distinguishing behavior patterns that officers can be trained to recognize. These include gestures to indicate the handicap, such as pointing to the ears, shaking the head and reaching for pen and paper.

Mentally retarded victims

It is estimated that there are 6 million mentally retarded Americans. This affliction limits the learning capacity of a person, and may be caused by a defect in the developing embryo of an unborn, through disease, deprivation or accident. Only a small percentage of the mentally retarded are institutionalized.

There are four generally recognized levels of retardation, ranging from mild to profound retardation. The mildly retarded can best be described as slow learners who are capable of living independently. The profoundly retarded, on the other hand, require constant care. They oftentimes have physical handicaps, and suffer sensory and coordination impediments as well.

One important issue for law enforcement officers is the ability to recognize the characteristics of a retarded person. Limited language skills, reduced muscular control and immature or inappropriate behavior may be indications of mental retardation.

In dealing with a mentally retarded victim or witness, an officer should be understanding and patient. The retarded individual will not have the usual ability to deal with a normal pace or complexity of an interview.

Autistic victims

This disability is found among a small number of the population; approximately 100,000 persons are so afflicted. The autistic person can usually be identified by unusual behaviors, including repetitive behaviors, tantrums, failure to use speech effectively and absence of social awareness.

Due to the severe limitations of an autistic person's ability to communicate, a parent or guardian will probably need to be present if an interview is necessary.

Cerebral Palsy

There are an estimated 750,000 persons afflicted with cerebral palsy in the United States. This dysfunction is brain-centered and affects muscle control and sensory functions. A person with cerebral palsy may suffer other complications, such as seizures, visual or hearing impairments, or learning disabilities. Depending on the type, cerebral palsy may cause a person to move stiffly and with difficulty, have involuntary and uncontrolled movements, or have a distorted sense of balance and abnormal depth perception.

Interviewing the cerebral palsy victim may require more time than a routine interview. If the victim has a speech or hearing problem it may also require the presence of a parent or guardian to assist. Many victims will require medication for seizure control and this must be taken into consideration by law enforcement officers.

Source: "The Training Key", International Association of Chiefs of Police, Inc., Gaithersburg, Maryland.

Victims with Epilepsy

Epilepsy is a condition which affects the normal electrical activity of the brain. It can take several forms, depending upon the part of the brain and how much of the brain is

affected. There are two main categories of seizures, generalized seizures which involve most of the brain areas, and partial seizures which affect only part of the brain.

In identifying a victim undergoing an epileptic seizure, it is important to note that the characteristic exhibited may be similar to drug or alcohol intoxication. Epileptic seizures have varying degrees of effect on consciousness. In some cases, the person affected may be aware they are having a seizure, but be unable to control it. They are not likely to have the ability to communicate during the seizure. In other cases, a loss of consciousness may occur ranging, from an altered consciousness in which a person is unaware of his surroundings, to total loss of consciousness. Generally, seizures are of short duration and do not usually impair a person after the seizure has stopped.

Estimates are that there are 2 million Americans who are epileptics. As a general rule, officers trained to recognize a seizure can take the necessary precautions and administer first aid, since seizures do not require medical attention. When in doubt about a diagnosis, or if a seizure continues longer than a few minutes, medical help should be summoned.

THE SPECIAL NEEDS OF WITNESSES OF CRIME

THE INVESTIGATION

Confidentiality

- Understand witness concerns about confidentiality
- Do not reveal names or addresses of witnesses unless required by law
- Select a private environment for your discussion of the witnessed event
- Assure the witness that the information you receive will be for "official use only"
- Treat all witnesses with courtesy and respect

Retaliation

- Recognize that witnesses may fear reprisals in the form of personal injury or property damage
- Understand that many fear actions against members of their family
- Discuss witness protection features of the Victim/Witness Protection Act. Outline established procedures for protection
- Let the witnesses talk about their fear
- Be careful: Do not discount these feelings
- Suggest that a witness: alter routes to work - become more observant of people making inquiries or following them -- report any suspicious activity to you immediately!
- Consider conducting a home security survey of the witnesses premises or arrange for such an inspection with a crime prevention specialist from local law enforcement

Protection

- Recognize that in instances where the witness was

identified by the offender or friends of the offender the likelihood of threats or retaliation is greater

- Understand that in these situations, witnesses will request protection more often
- Immediate protection must be provided if necessary

- Witness anxiety can often be reduced by escorting the witness from the crime scene and assigning manpower for surveillance

Additional considerations

- Understand that some witnesses, particularly the elderly, will require transportation
- Offer transportation -- they're assisting you!
- Recognize witness concerns about their employment
- Offer to meet the witness at times and in locations that will not jeopardize his or her job
- If appropriate, offer to contact the employer and seek cooperation

AFTER THE ARREST

Following an arrest, cooperation will be needed between the investigative agency, the Office of the U.S. Attorney and public assistance groups. Supervisors within your organization should be kept advised of the progress of the case, approve agency actions with respect to witness problems and finally oversee cooperative efforts between organizations within agency guidelines for the implementation of the Victim/Witness Protection Act.

THE QUESTION OF WITNESS INTIMIDATION

INTRODUCTION

The American Bar Association Criminal Justice Section Committee on Victims held two days of hearings in June of 1979 to explore the problem of victim/witness and to seek solutions. The Committee based its conclusions on testimony received from some 34 witnesses and from more than fifty additional submissions filed with the Committee.

It was virtually unanimous among those who testified that the criminal justice system is presently unable to respond adequately to intimidation and that proposals to change this situation are urgently needed.

THE INTIMIDATION PROBLEM

Intimidation of victims and witnesses of crime is a persistent problem with two unique aspects: It is one crime in which only unsuccessful attempts are ever reported or discovered. It is also a crime which inherently thwarts the processes of the justice system itself. For that reason, intimidation can undermine public confidence in our legal processes. Further, when intimidation is allowed to exist, our criminal justice system appears able and willing to take care of only the powerful and secure; intimidation's impact is particularly harsh on the poor and disadvantaged. It is a crime which is very common -- yet one for which there is often no punishment. Statutes and procedures are, in practice, rarely utilized by law enforcement and prosecutors.

Intimidation takes three general forms, each requiring a different response by the system. The first is the traditional threat by, or on behalf of, the crime perpetrator to "get" a victim or witness, a family member -- or even to damage property belonging to a victim or witness, if police are called or prosecution carried out. The second is termed "cultural intimidation." It is most prevalent in urban subcultures, when neighbors and family seek to deter a victim or witness from seeking redress through official mechanisms. The third -- and most prevalent -- is "perceived" intimidation, in which no real threat is made: i.e. an elderly women may be haunted by the fear that a neighborhood youth will return to her apartment to rob her.

WHAT DO WE KNOW ABOUT INTIMIDATION?

The Committee began its work on the intimidation issue by recognizing that a few hard statistics are available to document its existence. By its very nature, it eludes the statistician, because only the unsuccessful cases are reported. A 1976 study found that "fear of reprisal" was the reason most frequently cited for noncooperation of witnesses. It was cited by 28 percent of those who refused to assist with prosecution. Figures such as this can have a dramatic effect on the criminal justice process, since thousands of cases must be dropped annually when witnesses fail to appear or cooperate. Some additional data came to the Committee's attention during the course of the hearings. In Los Angeles, for example, the district attorney's office over a six-month period filed only five witness intimidation cases. Of these, it won three convictions. Two cases were dismissed. Two of those convicted were placed on probation; and the third was jailed on a misdemeanor count. Of the 20,000 persons in California's adult correctional system, only 11 are presently serving time for violation of the State's felony intimidation law.

The Victim Services Agency in New York City reported to the Committee that of 295 victims interviewed as they began the court process and again after disposition, 26 percent had been threatened at some point - 21 percent by the defendant and the remaining 5 percent by the defendant's family or friends. The Agency concluded that as many as 7500 victims and witnesses coming in contact with the Brooklyn Criminal Courts, alone, are threatened each year.

The Committee's final recommendations included the following for law enforcement:

Recommendation - Responsibility

Prevention of intimidation of victims and witnesses is a basic law enforcement responsibility which should be given high priority and a commitment of resources consistent therewith.

Recommendation - The Victim/Witness Protection Unit

A victim-witness protection unit should be created, consisting of specially assigned and trained peace officers.

Recommendation - Referral

Victim/witness protection units should be referred those cases in which any significant potential for intimidation or

retribution exists.

Recommendation - Advice of referral

Any individual victim or witness referred to the unit should be advised of the referral and contact methods.

Recommendation - Analysis of security of served persons and threat posed

The officer assigned to assist a particular person to be served should conduct an analysis of the physical and emotional condition of the person, the person's relationship with the defendant or other threatener, the residential and employment status of the person, and that person's needs in terms of transportation and general security. The officer or investigator should also assess the actual or implied threats directed to the person to be served or that person's relatives, analyze the criminal background, record and prior relationships of the threatener to violent persons, maintain knowledge as to the bail status and location of the defendant (where he or she is related to the threat) and integrate such information in an appropriate security plan for the person to be served.

Recommendation - Services to be provided

Law enforcement services should include telephone "hotline" setups, relocation capabilities, personal protection, increased patrol, transportation and investigation.

Recommendation - Warnings

Direct contact with the defendant (with defense counsel present) can be used to warn the defendant concerning the statutory penalties involved in witness intimidation. The victim/witness protection unit should aggressively follow up alleged violations of intimidation and harassment statutes, collecting and presenting evidence to the district attorney for prosecutions of violations under those statutes.

Recommendation - Liaisons

To adequately effectuate its objectives, the victim/witness protection unit will need to maintain close liaison with the prosecutor's office, juvenile protective services, the United States Marshal's Office and other agencies.

SECTION SIX

Emerging Trends

Summary

This section of readings will provide the student with information on the emerging trends in delivering services to victims and witnesses of crime. It also contains a brief summary on the important new issue of third party litigation and describes actions you can take to minimize your risk of being sued by crime victims.

In outline, readings in this section consider:

- Law Enforcement Based Assistance Units
- Programs for Federal Employees Who Are Victims Of Crime
- Third - Party Litigation - What Federal Law Enforcement Needs to Know

LAW ENFORCEMENT BASED VICTIM ASSISTANCE UNITS

Victim Assistance programs have proven to be of such value to law enforcement that according to the International Chiefs of Police Association, more than one-third of large departments (those serving 250,000 or more residents) now operate their own victim assistance programs. Many other smaller departments have developed cooperative agreements with community agencies that provide such services. Two national law enforcement organizations (The National Sheriff's Association and The National Organization of Black Law Enforcement Executives) have sponsored specialized programs that further support the development of victim assistance within the formal law enforcement organizational structure.

Since their early inception in the mid-70's victim assistance programs have clearly shown that they benefit not only the victim but the justice system as a whole. Indeed, the benefits these programs provide are of such value that federal law enforcement in jurisdictions lacking such services should seriously consider either establishing one within their own department or encouraging through the Federal Law Enforcement Coordination Committee in their District the development of such programming through cooperative agreement.

PROGRAM ACTIVITIES

The principal services that programs provide fall into six general categories:

- Emergency services
- Counseling
- Advocacy and support services
- Claims assistance
- Court-related services
- Systemwide services

Most programs, at a minimum, furnish basic counseling which provides reassurance, a sympathetic ear and assistance in solving many of the practical problems often created as a result of the victimization experience. Many programs the ones now available through the U.S. Attorney's Offices, provide court-related services. These services include: explaining the court process, escorting victims to trial and remaining with them during this proceeding and seeing to it that victims and witnesses have the opportunity to actively

participant in the justice process.

A thumbnail sketch of three programs further illustrates how victim assistance can help law enforcement to achieve its goals:

SCOTTSDALE ARIZONA - POLICE CRISIS INTERVENTION UNIT is a police based and sponsored program operates in a city of 90,000 with four full-time staff members. Police referrals account for about 80 percent of the unit's caseload. After normal working hours, officers telephone staff members at home or page them. Staff members provide direct counseling support and referrals to other local human service providers.

THE TWIN CITIES - MINNESOTA - CRIME VICTIM CENTERS is sponsored by a nonprofit organization to serve a population of 1.4 million. The program has 5 paid staff members and 23 volunteers working in 5 "storefront" locations. The program's large volunteer component and multiple locations enable it to provide 24-hour, on-site assistance. Officers who refer victims to the center receive information from staff members concerning their progress of the victims who were referred.

BALTIMORE - MARYLAND - U.S. ATTORNEY VICTIM WITNESS ASSISTANCE PROGRAM - provides a wide range of services to victims and witness of serious federal crimes. It directs victims to community resources and social services which can provide them with additional assistance. Notifies victims of case status, court appearances and case disposition. Accepts direct referrals from federal law enforcement.

Law enforcement units that work closely with victim assistance units are discovering that the activities of these units can help reduce police stress, permit faster return to patrol and often provide better evidence.

WORKING WITH EXISTING PROGRAMS

With over 5,000 programs available across the country to assist victims of crime, there are probably several that serve your community and are available to assist with your victims. Before establishing formal contact with a program, detailed information should be obtained on what the program does and how it can assist your organization. Check first with the LECC/Victim Witness Coordinator for your district. They can provide you with two important pieces of information: (1) The direct services which they provide (2) Additional programs in your community which can assist. Once contact is

established, your goal should be to work toward the development of formal guidelines to define such issues as: how to share information, what type of referrals are accepted, how referrals to the program are made and at what stage in the process does program staff become involved.

The Law Enforcement Coordination Committee for your district can be an effective way to approach the matter of victim services coordination. Suggest that a Victim Witness Services Coordination Committee be formed for your district, or if one is already in place get involved. This type of committee structure can also be instrumental in developing assistance programs if they are not available in your area. Coordination with local programs can also assist in making your district training in victim witness awareness more successful. Effective coordination can enable you to better utilize the victim assistance programs in your community. This assists you in meeting your objectives of stronger witnesses, better information and a more effective overall case.

PROGRAMS FOR FEDERAL EMPLOYEES WHO ARE VICTIMS OF CRIME

One of the chief recommendations made for the private sector by the President's Task Force on Victims of Crime was that employers should consider establishing programs for their employees who become crime victims. More and more, organizations are realizing that crime is costly to victims, to their families and to the organizations for which they work. Based on the Task Force recommendation, the National Institute of Justice sponsored a project with "Laws at Work" which created victim services in 10 major corporations. For example, CBS expanded its formal employee assistance program to include help for its employees affected by criminal victimization.

Agencies of the Federal government are following the example set by the private sector and developing similar programs. For example, the Western District of Texas has established victim - witness guidelines for its employees and the chaplaincy program formally acknowledges its responsibilities in providing supportive counseling to employees and their families victimized by crime.

Perhaps the most ambitious program is currently being developed by the Federal Bureau of Prisons. Prison takeovers at Atlanta and Oakdale, convinced administrators of the need to develop a formal operations "plan" for effectively responding to such a crisis and insuring that employees and their families get the help they need following such a tragedy.

The tragedies of Atlanta and Edmond, Oklahoma, where 14 postal employees were killed in a suicidal massacre help to underscore the fact that sometimes whole communities are affected by effects of violence. As Federal law enforcement you need to be ready to deal with situations that place communities in crisis.

THIRD PARTY LITIGATION - WHAT FEDERAL LAW ENFORCEMENT
NEEDS TO KNOW

WHAT IS "THIRD PARTY LITIGATION"?

A classification of cases in which the victims of crime (usually violent crimes against the person) have utilized the civil courts in an attempt to obtain redress against either the person who actually victimized them or against third parties whose negligence was responsible for their being victimized.

WHY DO VICTIMS SUE IN CIVIL COURT?

1. To recover financial losses
2. Therapeutic reasons - the civil verdict vindicates the victim; validates his or her suffering
3. Provides a means for the victim to express their outrage
4. Punitive damages - civil action now serving to punish
5. Prevention - puts companies/agencies on notice
6. It is the victim's right

CLASSIFICATION OF THIRD PARTY SUITS:

1. Victim vs. Perpetrator
A assaults B and B sues A
2. Victim vs. Negligent Third Parties
Victim sues third party whose negligence or gross negligence put the criminal in a position to victimize the plaintiff, thus proximately causing the injury.

Law enforcement agencies or representatives may be sued.

THE FEDERAL GOVERNMENT AND SOVEREIGN IMMUNITY

The Federal Tort Claims Act does not permit lawsuits against the Government when the actions or inactions complained of are discretionary in nature. Thus if a Federal official can, but does not have to, undertake a course of action, the Act does not permit a lawsuit against the Government for the failure of that official to refuse to perform this discretionary, not mandatory, act. Typically the victim also sues

the police officer or other government official who they claim was negligent.

PERSONAL LIABILITY OF POLICE OFFICERS

The victim who sues the police officer personally must show that the officer was (1) grossly negligent or (2) had a special duty to protect or assumed such a responsibility. For instance, a New York Court found a special relationship between the police and a victim who was shot by her husband when she had a court order of protection but was denied protection by the police. Courts have found public officials at fault for failing to warn the victim of a crime that a certain danger existed in cases where an officials had promised the victim or local officials that a warning would be given if the offender was released.

GOVERNMENT'S OBLIGATION TO TRAIN AND SUPERVISE

Under a provision of the United States Code, if a person is deprived of a constitutional right either as the result of government official policy or as the result of government's failure to train personnel, he or she may be able to collect damages in a civil suit against that government.

THE CHANGING TREND

It appears that crime victims are receiving more sympathetic treatment when they file suit against the government or government employee. For instance, during 1985 a Connecticut Federal Court let a verdict stand of \$2,6 million awarded to a crime victim who alleged that the police virtually ignored her calls for help. She had complained to them for eight months that her husband was threatening her life. A court order of protection prohibited her husband from being with his wife. When he came to the house, the victim called the police, who took 25 minutes to respond, during which time the husband coaxed her out of the house and stabbed and punched her. When the police arrived, they watched the husband kick his wife several more times before restraining him. At the trial the police argued that they were reluctant to interfere in domestic arguments in order to promote domestic harmony. The court held, however, that the victim had made it clear by repeatedly calling for help that she did not want to resolve the dispute in a domestic setting. This decision has led police departments across the country to emphasize appropri-

ate training in the area of domestic violence to help insure that similar situations and subsequent civil actions do not occur within their jurisdiction. They have realized that a small amount of: (1) preplanning in light of changes in the law (2) proper supervision, to ensure that departmental policies are followed and (3) careful training, can prevent judgments against law enforcement agencies and personnel for millions of dollars.

SECTION SEVEN

Supplemental Readings

DOMESTIC VIOLENCE - AN INTRODUCTION

As Federal law enforcement officers it is necessary that you have a comprehensive understanding of the dynamics of domestic violence. You need to recognize three basic concepts that should govern your response:

1. In the cycle of violence that surrounds domestic assault, the violence often escalates.
2. Domestic violence can lead to serious injury or death.
3. The law enforcement response to this problem can promote the chances for future violence.

It is the position of the Justice Department that upon intervening in domestic violence situations, your response should be guided primarily by the nature of the abusive act, not the relationship between the victim and the abuser. As a law enforcement professional, you should treat an assault within the family as seriously as you would an assault between strangers. By adopting a policy of arrest as the preferred response, you send a clear message to batterers - that it is against the law to assault another person, even if that person is a member of your family, and that this type of abusive behavior will not be tolerated.

What follows is a summary of the findings of the Attorney General's Task Force On Family Violence as well as a brief summary of issues surrounding domestic assault of particular interest to law enforcement

THE ATTORNEY GENERAL'S TASK FORCE ON FAMILY VIOLENCE

The Final Report of the Attorney General's Task Force on Family Violence was published in September 1984. The document summarizes the results of several months of public hearings at which over a thousand victims, experts and justice system practitioners testified about the nature and extent of family violence in our nation.

One central theme underscores the results of the Task Force analysis; family violence should be recognized and responded to as a criminal activity. A major conclusion of the Task Force is that the legal and criminal justice system response to family violence must be guided by the nature of the abusive or criminal act, not by the relationship between the victim and the abuser. Key recommendations for the chief components of the criminal justice system are as follows:

RECOMMENDATIONS FOR THE JUSTICE SYSTEM

1. Family violence should be recognized and responded to as a criminal activity.
2. Law enforcement officials, prosecutors, and judges should develop a coordinated response to family violence.
3. Communities should develop a multidisciplinary team to investigate, process and treat all incidents of family violence, especially cases of physical and sexual abuse of children.

RECOMMENDATIONS FOR LAW ENFORCEMENT

1. All law enforcement agencies should publish operational procedures which establish family violence as a priority response and require officers to file written reports on all incidents. In addition, the operational procedures should require officers to perform a variety of activities to assist the victim.

DISCUSSION

Law Enforcement Recommendation One:

All law enforcement agencies should publish operational procedures which establish family violence as a priority

response and require officers to file written reports on all incidents. In addition, the operational procedures should require officers to:

Process all complaints of family violence as reported criminal offenses.

Presume that arrest, consistent with state law, is the appropriate response in situations involving serious injury to the victim, use or threatened use of a weapon, violation of a protection order, or other imminent danger to the victim. If an arrest is not made, the officer should clearly document his reasons in the incident report (see also Law Enforcement Recommendation Two)

Provide the victim and the abuser with a statement of the victim's rights. The officer should inform both parties that any person who uses force to physically injure a household member has violated the law. The officer should inform victims that they have the right to be protected from further assault and abuse, to press criminal charges against the abuser and obtain an order of protection from the court.

Take a written statement from the victim in order to assist in the effective criminal prosecution of the offender. The statement should indicate the frequency and severity of prior incidents of physical abuse by the assaulter, the number of prior calls for assistance, and, if known, the disposition of those calls.

Complete a written report documenting the officer's observations of the victim, abuser, visible injuries, weapons present, and any other circumstances or facts significant to the abuse situation. When possible, the officer should photograph any personal injuries or property damage sustained by the victim.

Interview the parties separately so that the victim can speak freely without being inhibited by the presence of the offender.

Instruct the abuser to leave the premises. This should be the preferred action when an arrest is not made. If the victim chooses to leave the residence, the officer should stand by and preserve the peace. The officer should remain at the home for a reasonable period of time to allow the victim to remove personal

and necessary belongings.

Inform the victim about a shelter or other appropriate victim assistance services if they are available in the community.

Arrange or provide transportation for the victim to a shelter, medical treatment facility, or other appropriate victim assistance agency.

Remove dangerous weapons for a reasonable period of safekeeping. If a weapon is used in the commission of a crime, standard law enforcement procedures require custody of the weapon as evidence. Law enforcement policy should also require removal of weapons for safekeeping in incidents of family violence, especially when the weapon could be used in the immediate future by the offender to further harm or kill the victim.

Verify the existence of an order of protection at a central warrants unit if the offense involves the violation of such an order.

Provide the victim with an information card that specifically notes the officer's name, badge number, report number and follow-up telephone number.

2. Consistent with state law, the chief executive of every law enforcement agency should establish arrest as the preferred response in cases of family violence.

3. Law enforcement officials should maintain a current file of all valid protection orders in their jurisdiction.

4. Law enforcement officers should respond without delay to calls involving violations of protection orders.

5. Forms for obtaining protection orders should be available at all police stations and sheriffs' offices.

6. When responding to disturbance calls, law enforcement officers should document violations of pre-trial release conditions. The report should verify the facts and circumstances necessary for the prosecutor to request revocation of the release.

RECOMMENDATIONS FOR PROSECUTORS

1. Prosecutors should organize special units to process family violence cases and wherever possible should use vertical prosecution.

The units should work closely with victim assistance providers.

The units should review all law enforcement reports involving incidents of family violence whenever possible.

2. The victim should not be required to sign a formal complaint against the abuser before the prosecutor files charges, unless mandated by state law.

3. Whenever possible, prosecutors should not require family violence victims to testify at the preliminary hearing.

4. Prosecutors should adopt special policies and procedures for child victims. These should include:

Presenting hearsay evidence at preliminary hearings so the child is not required to testify in person

Presenting, with consent of counsel, the child's trial testimony on videotape

Use of anatomically correct dolls and drawings to describe abuse

Limiting continuances to an absolute minimum

5. If the defendant does not remain in custody and when it is consistent with the needs of the victim, the prosecutor should request the judge to issue an order restricting the defendant's access to the victim as a condition of setting bail or releasing the assailant on his own recognizance. If the condition is violated, swift and sure enforcement of the order and revocation of release are required.

RECOMMENDATIONS FOR JUDGES

1. A wide range of dispositional alternatives should be considered in cases of family violence. In all cases prior to sentencing, judges should carefully review and consider the consequences of the crime on the victim.

2. Judges should treat incest and molestation as serious criminal offenses.

3. Judges should adopt special court rules and procedures for child victims. These should include:

The use of hearsay evidence at preliminary hearings

Appointment of a special volunteer advocate for children, when appropriate

A presumption that children are competent to testify

Allowing the child's trial testimony to be presented on videotape with agreement of counsel

Flexible courtroom settings and procedures; and carefully managed press coverage

4. Protection orders should be available on an emergency basis in family violence cases.

5. Judges should establish guidelines for expeditious handling of family violence cases.

6. Judges should admit hearsay statements of family violence victims at the preliminary hearing.

7. Expert witnesses should be allowed to testify in family violence cases to familiarize the judge and jury with the dynamics of violence within the family.

8. In granting bail or releasing the assailant on his own recognizance, the judge should impose conditions that restrict the defendant's access to the victim and strictly enforce the order.

QUESTIONS ABOUT DOMESTIC VIOLENCE

HOW SERIOUS IS THE DOMESTIC VIOLENCE PROBLEM?

About one-fourth of all homicides and serious assaults are domestic. Minor violence, which usually precedes serious injuries, is far more pervasive. While it is hard to measure, "family" violence is probably the most widespread form of violence in the country and can occur in all social classes and income groups. The recent resignation of a high Federal official under pressure of publicity about his admitted wife beating illustrates both the presence of the problem among the well-to-do and the new morality that refuses to tolerate such conduct. Most of the cases to which police are called involve poorer people. Whether this is because lower income people are likelier to be victims of family violence, or because of other factors, is unclear. In a study in Minneapolis, a city with about 5 percent unemployment, about 60 percent of the males in the households to which police were called were unemployed.

WHAT DO POLICE USUALLY DO?

Handling a violent domestic incident has never been an easy matter for police, and for years arrest was unusual so long as the police themselves were not assaulted or insulted. In the late 1960's the police became more involved in the conflict itself and tried to act as mediators or counselors. The U.S. Department of Justice provided funds to police departments to support training for police officers in techniques of counseling and mediation. By the mid-1970's, however, the innovative mediation approaches came under criticism because, it was argued, they did not provide sufficient punishment for the spouse abuser and the child abuser. Advocates of victims demanded that police arrest offenders, and they filed lawsuits in New York City and elsewhere to enforce their demand. Although these suits had some impact, in 1984 a survey of big city police departments found that only 10 percent encouraged officers to make arrests in domestic violence cases, while 40 percent will encouraged mediation and 50 percent had no police at all. If extreme action is desired, many police would rather not make an arrest; they prefer to order an informal separation or to tell the offender to leave the house for the night.

WHY DON'T POLICE MAKE ARRESTS?

There are many possible explanations. One of the most important is that for many domestic violence incidents, the police have legal authority to make an arrest only if they witness the incident or if they have obtained an arrest warrant from a judge. This is because the law treats much domestic violence as a misdemeanor, a less serious offense. Only for felonies, the more serious offenses, may an arrest be made without a warrant or without witnessing the alleged criminal conduct. Only in 28 States are police allowed to make arrests in misdemeanor domestic violence cases in which they did not witness the disputed conduct.

Even where police can make arrests on their own authority, they are often afraid the arrest will backfire, producing more violence rather than less. They decide not to arrest out of fear that the offender will return to the victim and inflict even more harm.

In explaining why arrests in domestic violence cases are not more common, police also cite the frequent change of heart victims have the day after the assault and their refusal to cooperate with a criminal prosecution--both reasons for dropping the charges. Police argue that it is pointless to make an arrest if there will be no court-imposed punishment unless the victim cooperates.

Many police may consider the risk of injury to themselves if they make an arrest. Academics have taught, and most police believe, that domestic "disturbance" calls are among the most dangerous tasks police face. But recent statistics compel us to ask if that is true.

HOW DANGEROUS ARE "DOMESTICS" FOR POLICE?

Many police believe that domestic calls are unusually dangerous, and this is why they may be reluctant to make arrests. The belief is based on old statistics showing frequent police deaths in "disturbance" calls of all types. A recent breakdown of those figures provided by the FBI showed that most police killed in disturbance calls were dealing with bar fights. The number actually killed in family quarrels was a much smaller fraction and less even than the number of officers shot accidentally by other police officers. Thus, police face more danger from one another and from domestic calls.

WHY DO MANY GROUPS DEMAND ARRESTS?

Historically, the demand that domestic assailants be arrested was based on retributive beliefs--that domestic violence is a serious crime and the prosecution and punishment are the morally appropriate responses. The call for more reliance on arrest policies was not seen as a means of deterring repeat violence or as a means of deterring other potential offenders. The philosophical debate about what response to domestic violence is most just cannot be settled by statistics or evidence. A mandatory arrest policy is resisted by many police because they believe that the police must decide how to handle each incident on a case-by-case basis. Moreover, police often do not believe that arrest is the appropriate handling of a domestic assailant, especially if there is evidence of the victim's verbal provocation of the assault.

One practical argument in favor of arrest is that it can provide leverage to get offenders into counseling programs, which many people believe to be an effective way to reduce future violence.

THE MINNEAPOLIS EXPERIMENT

A major experiment was recently conducted by the Police Foundation in Minneapolis to learn whether mediation, separation, or arrest works best at reducing subsequent violence against the victim. The premise was that police practice should be guided by knowledge about the actual effects of using one policy instead of another.

WHAT WAS THE EXPERIMENT DONE BY LOTTERY?

The experiment was done by police officers who agreed to give up their discretion to domestic assault cases and to take whatever action was dictated by a random system of employing arrest in some cases, mediation in others, and so on. This method attempts to ensure that those arrested, those advised, and those ordered out of the house were roughly comparable in average age, education, income, rate of offending, percent black or white, and whether they were intoxicated. Otherwise, the police would have arrested only the most "serious" offenders, who might then have had the highest rate of repeat violence--not because they were arrested, but because they were unusually violent people.

WHAT DID POLICE DO?

Police practices varied somewhat from officer to officer. The arrests were probably the most consistent police action, with the offender spending at least one night in jail. Separation varied somewhat, because if the offender refused to leave the house, the officer was instructed in arrest him. Advice or mediation varied the most widely, because some officers put much time into it while others put very little. None of them received special training for the experiment, since the purpose was to test the "typical" police approach to advice or mediation.

WHAT WERE THE RESULTS?

After the police completed their work on a case, Police Foundation researchers contacted the victims and attempted to interview them every 2 weeks for the next 6 months. The main focus of the interviews was to discover if the offenders had repeated their assault. Repeat violence was also measured by tracking for 6 months, all the official records of repeat contacts between police and offenders (or victims).

WHAT WERE THE FINDINGS?

Under both methods of measurement, the arrested offenders were about half as likely to commit repeat violence as the nonarrested offenders. The official records showed that about 18 percent of all offenders repeated their violence, while only 10 percent of the arrested offenders repeated it. Findings from the interviews with victims were similar.

CONCLUSION

Domestic violence is a crime, and the police have an obligation to treat it seriously and to act to protect victims--especially victims of repeated attacks. The Atlanta, Minneapolis, and Duluth approaches illustrate ways that police are attempting to respond to the needs of victims. Even if police were not moved to act against domestic violence because it is right to do so, the courts are applying powerful pressures. In June 1985, a Connecticut jury awarded \$2.3 million in damages to a woman who, after complaining repeatedly of violence inflicted by her husband, sued the Torrington Police Department for failing to arrest him. Similar cases elsewhere are pending. The argument is

that police are negligent in failing to arrest now that there is some evidence that arrest can have a deterrent effect.

WHITE COLLAR CRIME - AN INTRODUCTION

White Collar crime makes up a significant portion of the total number of crimes investigated by Federal law enforcement. For example, during fiscal year 1984, this category of crime made up 30 percent of the total.

As Federal law enforcement dealing with this problem, it is an area about which many of you need to be keenly aware. The readings that follow, help to describe the size and scope of this problem. The problem is also uniquely examined from the perspective of the victim of white collar crime.

WORKING WITH VICTIMS OF WHITE-COLLAR CRIME

Information prepared especially for Federal Law
Enforcement by Jane Kusick - Founder - White
Collar-Crime 101

DEFINING WHITE-COLLAR CRIME

White-collar crime in its simplest definition is a violation or a breach of trust. One individual is trusting another to do what is honorable and legally correct. When there is criminal intent and the trust is broken by means of lying, cheating or stealing, there is a situation of white-collar crime. Facts, figures and statements in the presentation of business deals or the sale of goods or services is wrought with misrepresentations and deceit in a scam operation. White-Collar crimes can be very simplistic or extremely intricate in planning and execution.

CHOOSING THE VICTIM

White-collar crime knows no socioeconomic boundaries. Although the white-collar criminal in most cases selects a particular group as victims, depending upon the type of scam he is working, no group is immune from becoming targets. Victims run the gambit from multimillion dollar corporations to the elderly living on a fixed income.

In the case of the long scam, which can run from a period of several months to several years, the orchestration is done with a great deal of forethought and sophisticated planning. The long scam or con is much like a theatrical production. The con artist acts as the playwright by creating the plot with a business deal, casting director by choosing specific victims for each role he wants them to play, and giving overall direction as the scam unfolds by manipulating the victims ("players"). He will remain in control as the director or "The Man", by maneuvering the victims on stage throughout the production. In some cases he will even feed them their lines and have them become what are known as "singers". The singers are individuals ("players") who express praise of the cons directorial accomplishments. They have received a return on their investment and feel confident about suggesting to friends, relatives, and business acquaintances that they should also invest in the deal. These individuals are unaware that they are being manipulated as singers and will

eventually become victims along with the other investors they have brought into the deal. Generally, new players are essential to provide more funding for the scam to continue and sustain the production over a long period of time.

Another way that the con controls his victims is by making sure that any individuals who could potentially be a disruptive influence, by questioning his motives and validity of the deal, are eliminated from contact with those who have already invested. He does this by suggesting, in a very subtle manner through innuendoes and comments the idea that the disruptive individual does not have the best interests of the victim at heart and is somehow not an honorable and forthright person. The con at all times must be in control of his players. They look upon him as a strong, powerful influence and they believe he has their best interest in mind. The con will choose in most cases, honest law-abiding citizens because they are much easier to manipulate and the con in turn will be able to trust them.

The con is an extremely intuitive and instinctive individual. He can size up a victim within a matter of minutes. Again, he knows who to play with and who to stay away from. Victims who are chosen by cons fit the criteria he is looking for in order to establish credibility and respectability and enhance the validity of the deal. Each victim is chosen not only for monetary capabilities, but also for abilities to bring in other investors.

A con running a short scam, such as a boiler room operation, is not as precise and selective in choosing his victims. Although there may be a specific target market, interaction with the victim is done on a rather impersonal basis, as in the case of telephone and mail scams. Groups of victims are chosen as opposed to one-on-one relationships between the con and victims. This is prevalent in a long financially intricate scam.

THE EFFECTS OF WHITE-COLLAR CRIME VICTIMIZATION

White-collar crime is a nonviolent yet psychologically devastating crime. Unlike a violent crime, for example armed robbery where a weapon such as a gun or knife is used, white-collar criminals use manipulation as their ultimate weapon. It is a form of mind control and most victims describe actually being under a hypnotic or mesmerizing influence by the con.

Victims display the following emotional stages:

1. Disbelief - There is a feeling of wanting to believe that the con will eventually come through and deliver what was promised. There is a very strong feeling of hope on a part of the victim. An ongoing feeling of bonding between the con and the victim lingers.
2. Denial - Victims deny what has happened or that an evil act has even occurred. They continue to believe that it is a business deal gone sour.
3. Rationalization - When individuals finally realize that they have been victims of economic crime they begin to rationalize. Many victims, for example, will say they feel fortunate because they did not lose as much as another person. They also begin to make excuses for the con, such as the timing was not right or the con was over extended. By rationalizing the loss of their money they are in turn building up their shattered egos. However, this is strictly on a temporary basis.
4. Anger - When victims finally realize what has happened they become angry and seek either legal counsel or contact with appropriate law enforcement authorities. They soon realize, however that attorneys require, in most cases, a retainer to proceed with a civil action and since they have just had a financial reversal they cannot afford to proceed. If law enforcement officials feel that there is not a strong enough case to warrant a full-fledged investigation the victim expresses further frustration and anger.
5. Stress - If there is a significant loss of funds the stress from this situation can manifest itself in a variety of physical ailments, alcoholism, drug abuse, suicide, spouse and child abuse or other violent acts.
6. Depression - Blaming oneself for what has happened. Victims feel that it was their fault for not being more astute and smarter. This is reinforced by a society which blames the victim. It is not uncommon for victims to be punished verbally by business associates, friends, or relatives who chastise them for their so-called stupidity. Asking why they

became involved with a white-collar criminal in the first place. Society views the con as the intelligent, smart individual and in some cases even hold him in high esteem.

7. Afraid to Face Others - Most victims refuse to talk openly about their situation. They have feelings of betrayal and guilt.

HELPING WHITE COLLAR CRIME VICTIMS COPE

It is most important when dealing with white-collar crime victims to get them to understand that they are not in fact the criminal. They need to be given a complete and concise understanding of exactly what has happened to them and how the con used manipulation as a weapon in order to get them to surrender money to him. It is imperative that they absolve themselves of guilt.

One avenue of assistance to victims is referral to "White-Collar Crime 101". This program can assist victims in learning how to cope with the financial and emotional stress which so often accompanies their unique form of victimization.

VICTIMS OF WHITE COLLAR CRIME SHOULD
CALL 703-848-9248 OR WRITE:

White-Collar Crime 101
8300 Boone Boulevard, Suite 500
Vienna, Virginia 22180

WHITE - COLLAR CRIME

Defining white - collar crime

Although white - collar offenses are less visible than crimes such as burglary and robbery, their overall economic impact may be considerably greater. Among the white collar cases filed by U.S. Attorneys in the year ending September 30, 1985, more than 140 persons were charged with offenses estimated to involve over \$1 million each, and 64 were charged with offenses valued at over \$10 million each. In comparison, losses from all bank robberies reported to police in 1985 were under \$19 million, and losses from all robberies reported to police in 1985 totaled about \$313 million.

During 1985, 10,733 defendants were convicted of Federal white - collar crimes, and increase of 18 percent in the number of white - collar convictions since 1980. The conviction rate for white collar defendants was 85 percent, compared to a rate of 78 percent for all other defendants in Federal criminal cases.

Other findings include the following:

1. About 30 percent of suspects investigated by U.S. Attorneys in the 12 months prior to September 30, 1985, were suspected of involvement in white collar offenses; the majority of suspects were investigated for fraud.
2. Criminal cases were filed by U.S. Attorneys against 55 percent of white - collar suspects -- the same filing rate as for nonwhite - collar offenses. The filing rate for tax fraud was the highest (79 percent), followed by regulatory offenses (65 percent).
3. About 40 percent of white - collar offenders convicted in 1985 were sentenced to incarceration, compared to 54 percent for nonwhite - collar offenders.
4. Those convicted of white - collar crimes received shorter average sentences of incarceration (29 months) than other federal offenders (50 months).
5. Those convicted of nonwhite - collar crimes were more than twice as likely as white - collar offenders to receive a sentence of more than 5 years; white - collar offenders were more likely to be sentenced to probation or fined.
6. Among white - collar offenders, those convicted of coun-

terfeiting were the most likely to be sentenced to incarceration (59 percent). They received the longest average sentences (40 months) and were the most likely to be sentenced to more than 5 years.

7. Although average sentence lengths for nonwhite - collar crimes did not increase from 1980 to 1985, sentence lengths for white - collar crime grew 20 percent. Among types of white - collar crime, sentence lengths for tax fraud grew the most -- 86 percent.

8. Those charged with a white - collar crime were, on average, more likely than other types of defendants to be woman, nonwhite, over 40 and to have attended college.

FEDERAL WHITE COLLAR CRIME CONVICTIONS - 1985

<u>OFFENSE</u>	<u>PERCENT</u>	<u>CONVICTIONS</u> <u>NUMBER</u>
Fraud	100%	5,972
Tax	20	1,204
Lending and credit	9	540
Wire and mail	24	1,428
Other (a)	47	2,800
Embezzlement	100%	1,753
Bank	48	842
Government	10	173
U.S. Postal Service	18	313
Other (b)	24	425
Forgery	100%	2,014
U.S. Government documents	79	1,594
U.S. Postal Service	8	152
Securities	13	254
Other	1	14
Counterfeiting	100%	503
White - collar regulatory offenses	100%	491
Import and export (c)	25	127
Antitrust	23	114
Transportation	23	113
Food and drug	17	84
Labor	8	37
Agriculture and agricultural materials	3	37
Total white - collar convictions	100%	10,733

- (a) Includes false claims and statements; Government program fraud; fraud concerning bankruptcy, commodities, securities, passports, or citizenship; and conspiracy to defraud.
- (b) Includes labor organizations, Indian tribal organizations, and other federally protected victims.
- (c) Includes customs violations and export of restricted defense materials and information; does not include drug offenses.

SUSPECTS INVESTIGATED IN MATTERS RECEIVED BY U.S. ATTORNEYS
October 1, 1984 to September 30, 1985

<u>OFFENSE</u>	<u>PERCENT</u>	<u>NUMBER</u>
All Offenses	100%	80,949
White - collar	30	24,507
Tax fraud	2	2,013
Lending and credit fraud	2	1,398
Wire fraud	5	3,919
Other fraud (a)	9	7,251
Embezzlement	6	4,921
Forgery/counterfeiting (b)	5	3,719
Regulatory offenses	2	1,286
Nonwhite - collar	58%	46,942
Conspiracy and Undifferentiated Offenses	12%	9,500

(a) See Note a, table 1.

(b) Data do not permit separate classification of forgery and counterfeiting suspects.

(c) Cannot be classified as white collar or nonwhite collar.

THE THREAT FROM WITHIN

A National Priority

According to Special Agent Lane Bonner of the Federal Bureau of Investigation, the agency is so concerned about this epidemic that white-collar crime investigation is now one of its four "national priorities," along with organized crime, counterintelligence, and terrorism. In fiscal year 1984 alone, FBI agents were involved in 19,800 investigations of government fraud, public corruption, union corruption, and financial crime. And in 1983, 19 percent of the bureau's agents were involved in white-collar crime investigations, and 44 percent of all of its convictions were in these cases.

Because most white-collar crime goes undetected, estimates of its magnitude vary widely, from \$40 billion to over \$200 billion.

Computer Crime

The introduction of fast, inexpensive microcomputers is one of the most important phenomena of our time. Along with giving managers instant access to information and making their jobs easier, it has made it relatively easy for a skilled bandit or dishonest employee with a personal computer and a modem to obtain confidential data -- for millions of dollars -- from unwitting companies, banks, and government agencies. Losses to computer crime have been estimated by the Department of Justice as at least \$100 million annually, not counting the costs of investigation and prosecution.

There are five main categories of computer crime:

1. Vandalism. Destroying or damaging a computer, its components, or software can cause tremendous delay and expense. Whether the vandal is motivated by a labor-management dispute, market competition, terrorism, or simply a grudge against the employer, the physical security of the data processing system is vital -- and vulnerable. (In one nightmarish case, a saboteur removed the labels from 1,500 reels of computer tape. It was incredibly expensive and time-consuming to reidentify all the data.)

2. Theft of information. Insiders may steal valuable programs or data and sell the originals or copies to competing companies. Sometimes the thefts occur in time-sharing centers.

3. Use of computers for personal benefit. Examples of this would be moonlighting on an employer's computer, or city officials using taxpayers' money to run out lists for campaign mailings on municipal equipment.

4. "Burglary by modem". This occurs when criminals place large orders for merchandise by entering the order directly into the computer over the phone. They ask for delivery on a given day at a specific location, then pick up the goods and take them away for sale.

5. Financial fraud. This usually occurs when the top management of a troubled or start - up company decides to "create" false assets and earnings to lure investors or please stockholders. In the notorious Equity Funding Case, officials falsified 60,000 of the company's 97,000 insurance policies. They assigned a secret computer code to all fake policies: "Dept. 99". This code made the computer skip those policies for billing purposes. When the federal investigators asked to audit those files, the company said they weren't immediately available, then forged hard copy files complete with health reports, contracts, and supporting documents. A discharged official tipped off authorities while the forged copies were being concocted, and the management was caught red-handed. Their fraud ultimately cost investors \$1 billion.

SEXUAL ASSAULT - AN INTRODUCTION

All crime acts as a violation of self. The theft of something one owns serves as a violation of our extended "self". Burglary violates our sense of protected space...it is our shelter, a physical expression of who we are. While all crime is a violation, short of murder none is more brutal than rape.

With a sexual assault, you feel helpless and invaded. Someone has used you against your will, in a manner so vile and demeaning that only overwhelming force or the fear of death overcame your resistance.

As Federal law enforcement you may be called upon to respond to situations where sexual assault has occurred. The following readings will assist you to intervene in a positive manner.

SEXUAL ASSAULT STABILIZATION

1. Providing a secure and safe place for a victim interview is particularly important since the victim is usually terrified. Arranging for a family member or a friend to stay with the victim overnight is also helpful.

2. Pay attention to the victim's opening words when she talks to you. Evidence suggests that these words will give you a clue about her real concerns and will include crisis requests as well as possible solutions.

3. Ventilation is critical for most rape victims, but it is important to emphasize what they wish to tell you. An accurate description of what happened is necessary for law enforcement but making the victim tell such details over again may only add to her trauma.

4. Try to minimize guilt and self-blame. Do not phrase questions in a way which sounds judgmental or in a way which might inhibit the victim from answering. If the victim dwells on her guilt, an intervenor may want to say at some point: "There is no reason for you to feel guilty. He had no right to attack you".

If the victim expresses guilt over her failure to fight or escape, indicate that survival is the most important thing and that whatever she did in response to the attack was probably the best thing she could have done in that situation.

5. It is important that the victim have someone to talk to and to stay with her after the event. That person is normally a member of her family or friend. Despite the desire for such reassurance, the victim may be afraid to call someone for fear of being rejected. If she is afraid, the crisis intervenor may suggest making the call or talking to her friend. A serious worry to many rape victims is telling a husband or children. Victims should be reassured that children do not need to be told immediately. (It is suggested that children who are old enough to understand should be told sometime in the first three months after the rape.) Husbands should be told, but the victim may want to discuss the pros and cons of such information with a counselor prior to breaking the news.

6. Provide a complete explanation of what the police investigation will entail and what the victim can expect at the hospital emergency room. Accurate description of the reasons for these procedures will help the victim understand and ac-

cept that can be a necessary but humiliating experience. More importantly, the victim who finds her intervener has "sugarcoated" the medical or law enforcement procedures may lose trust in law enforcement.

SCOPE OF SEXUAL ASSAULT IN THE UNITED STATES

389 women raped every day

40% of all women and 10-20% of all men sexually abused as children

SEXUAL ASSAULT: NATURE AND UNIQUENESS

Nature

1. Sexual assault can be defined as a sexual act done without consent of victim, it may include sexual harassment, rape, assaults or penetration with objects other than a penis, non-penetration assaults and so forth.
2. Rape is usually defined as unlawful sexual intercourse with a person against his or her will by force or threat of force. In most states sexual intercourse is defined as penile-vaginal penetration although penetration may be slight.
3. Statutory assault or rape: based on age or competency of victim.
4. Definitions should apply regardless of sex, age, or relationship of victim or offender.
5. Can happen to children and adults, males and females, strangers, acquaintances or family members or partners.

Uniqueness

1. Violation of self more complete than any other crime except murder.
2. Majority of victims in fear of life.
3. One of few crimes where consent is an issue.
4. One of few crimes where resistance is an issue.

SECOND ASSAULTS BY SOCIETY

1. Rape exam like the second rape.
2. Not believed by system
 - a. Victim may have to take a polygraph test
 - b. Victim may be subjected to psychiatric test
 - c. There may be a demand for corroboration
 - d. Victims may receive little or no information on the case
3. Reactions of family and friends
 - a. Loved ones may blame the victim as well
 - b. Loved ones may be traumatized as well
 - c. Loved ones may be out of sync with victims' reactions causing isolation and resentment
4. Reactions of society
 - a. Victims may be fired due to time away from work for counseling, attendance at trial or may be fired because of the stigma associated with the sexual assault.
 - b. Some victims have been told by their religious leaders that they are not fit for marriage because of their sexual experience.
 - c. Sexual assault is often sensationalized in the media and many times the name and address of the victim is printed.

IMPACT OF SEXUAL ASSAULT ON ITS VICTIMS

Physical: Injury, pregnancy, V.D., Aids
Loss of appetite, insomnia
Sick, loss of libido

Emotional: Hysteria
Lack of affect
Feeling of helplessness
Loss of control
Fear of retaliation, of meeting attacker, of being alone
Feelings of shame, self-blame, guilt, humiliation
Disrupted sexual functioning
Depression (from moderate to severe)
Loss of self-esteem, damaged self-respect
Inability to deal with own rage and hostility
Repression, denial
Perceptual distortion

60 % may suffer from post traumatic stress disorder

Social: Disturbance in coping mechanisms
Violation of trust in others
Loss of privacy
Marital and other family problems, divorce
Community stigma

Economic: Medical costs
Legal costs
Time lost from job
Loss of job
Change in residence
divorce
Withdrawal from school

MOST COMMON MYTHS

1. Only young, attractive women are sexually assaulted.

Victims are chosen because of vulnerability -- it happens to all ages. Rapes have been reported by victims from 2 months to over 90 years of age. Also young males and adolescent males are sexually assaulted each year (including homosexual assaults).

2. Women who are sexually assaulted have put themselves in jeopardy by hitchhiking, being out alone at night, having a bad reputation, wearing provocative clothing, etc.

Most reported rapes take place in the victim's home. The second most common place is shopping centers. Some people say that women should stay home -- they aren't really solving the problem when the national statistics show that over 1/3 of the rapes occur in homes and occur in the daytime. Over 1/2 of the rapes occur in either the victim's or assailant's home.

Gestures, ways of dressing, etc., presents an interesting dilemma. We encourage women to dress attractively, in a sexy manner, but if a woman is unlucky enough to be raped, she is provocative and asked for it. Studies show that "precipitative" behavior on the part of the victim in reported rape cases occurred only about 4% of the time.

3. Sexual assault is an impulsive act.

Studies show that the majority of rapes (70%) are planned in advance. This leads to another major myth ...

4. Rapes represent a need for sexual gratification.

Studies show that more than 1/2 of convicted rapists were married or had consenting sexual partners. Sex is the chosen mode of expression for other feelings of anger and power.

5. All women secretly want to be raped.

Based on mistaken notion of rape as a sexual act; like saying that all women desire to be humiliated and overpowered.

6. Rape can be avoided if the woman resists.

Trained policewomen have been unable to avoid being raped by resisting. A victim may be knocked unconscious, drugged, etc. Men in prison are raped in spite of their "strength". Rape victims need to do whatever necessary to survive.

7. Rapist is a stranger.

Studies show that 1/3 to 1/2 of the rapists are known to the victim prior to the assault.

GENERAL TYPES OF RAPE:

Surprise Attack - The victim is leading her usual everyday life and a moment later she is attacked. She feels her world is shattered.

"Marked" Victim - The victim knows or has met her attacker in manner prior to the assault. She feels she has no reason to fear him. He assaults her. She feels betrayed; some victims feel guilt because of their trust or vulnerability.

Initial Consent to Sex

- Often called "false reports" by police. These are cases in which a woman initially agreed to have relations but something went wrong, i.e., the male becomes violent or perverted. The female becomes anxious or changes her mind; parents or other persons

intervene. The experience was also upsetting to these women and they are still victims.

POST-RAPE REACTIONS:

1. Fear
 - of being alone
 - of crowds
 - of men
 - of anything reminding them of their assailant
 - of the return of the assailant
 - of husband/wife, family or friends finding out
2. Other Reactions
 - Embarrassment
 - Guilt
 - Suspicion
 - Anger
 - Obsession with the assault
 - Disruption of their normal sex life
3. Reactions to first responder
 - Difficulty talking
 - Hyperv verbal
 - Crying/Silent
4. Usual concerns of the victim
 - Should s/he report it
 - Venereal Disease
 - Pregnancy
 - Fear of the assailant's return
 - Fear of those close find out
 - Fear of being alone
 - Concern over the ensuing procedures if s/he reports the assault
 - Need to ventilate his/her anger (sometimes misdirected at you)
 - Need to discuss his/her feelings

TARGET SELECTION

There are three types of rape acquaintance rapes, gang/pair rapes and stranger-to-stranger rapes. Prior to the assault:

1. The potential rapist looks for a female/male who is/

looks vulnerable, such as:

- handicapped
- retarded
- sleeping
- very young/very old
- intoxicated/stoned
- alone

2. The potential rapist looks for environments that are easily entered and relatively safe, such as:

- parks
- laundry rooms
- parking lots
- inside deserted buildings
- alleys/dark streets

3. The potential rapist selects the victim long before he approaches the victim. Rapists' patterns are very consistent, in that they:

- search for a vulnerable target
- try to intimidate the victim
- threaten the victim
- assault the victim, either sexually, physically, or emotionally

THE SURVIVORS OF HOMICIDE - AN INTRODUCTION

As a law enforcement officer or investigator, you will probably be confronted with death at some point during your career. Dealing with death can be very distressing for anyone whose official duties require them to be involved with its aftermath. There are few events more life shattering than taking on the unexpected news of the death of a loved one. Homicide survivors are particularly vulnerable to severe crisis.

As an intervener, the threat to your emotional balance is very real unless you develop effective coping methods to handle these stressors. Understanding the dynamics of death, the grieving process, and techniques of an effective death notification can help you both professionally and personally. The following materials should help you to more effectively deal with the survivors of homicide and your own emotions when dealing with these difficult situations

DEATH: THE FIVE STAGES OF GRIEVING

In 1969, Dr. Elisabeth Kubler-Ross proposed that the grieving process could be broken down in five stages reasonably common to most grieving and death situations.

While these stages are observable in a number of grief/death situations, it is thought that some stages may be omitted, or the stages may rearrange due to a variety of factors. For purposes of instruction, the following is a brief explanation of the five stages of grieving, presented in their most common order.

Denial

Upon learning of a death, the most common reaction is disbelief and denial. This is particularly true in the case of unexpected death, or when a body is not recovered or is not available for viewing. In many cases, the survivor is caught completely by surprise, and unprepared to accept the death notification as being true. Even in cases involving considerable disfigurement, it is generally advisable to permit necessary viewing of the body, to lessen future emotional pain. Frequently, disbelief will be presented to the law enforcement officer accompanied by an array of emotions from humor and sarcasm to accusations that the notification must be part of a cruel joke or hoax. In this case, denial functions as an emotional shock absorber and allows the individual time to collect themselves, and mobilize other emotions and attitudes to help cope with the loss.

Denial is usually a temporary defense and will be replaced by partial acceptance of the facts. Using clear terms, understandable words, and a carefully staged buildup to the principle message will aid understanding. The survivor may demonstrate denial and disbelief, but if the message has been conveyed clearly, the first hurdle has been approached. Denial may be a sign the survivor comprehends the message, though they desperately want to deny its validity.

Anger

Anger usually follows denial, and many demonstrate that the message has been received, understood, and partially accepted. If denial was completely effective, there would be little basis for anger.

Anger has a variety of faces. It may be open hostility to the bearer of the death notification. It may be the result of jealousy at being "robbed" of a loved one. It may conceal feelings of personal guilt at being unable to resolve conflicts left unresolved with the deceased. It is usually considered the "why me?" stage.

In its most common form, anger will be difficult to anticipate, and may show up with little or no warning. Officers must be cautious to deal with survivors in an effective, but understanding manner. An angry response on the part of a law enforcement officer is usually inappropriate. Such a use of anger will likely elevate the hostility or violence of the situation.

It may be difficult, but necessary, to rebuff anger or hostility without using it. While it may seem personal, the anger being displayed by the survivor is usually a demonstration of rage at their loss. Emotional pressures should be allowed to ventilate and subside.

Officers must be alert and ready to protect themselves, but must be cautioned about the character of this type of anger. Grief-related anger is generally nonspecific, akin to a tantrum. While it may be vigorous and occasionally even violent, it usually cannot be characterized as malevolent.

The watchword to handling grief-related anger is to be a cautious, caring professional who does NOT feed the flames of anger with your own hostile response.

Bargaining

This stage may be seen less than either Denial or Anger. It is most commonly a promise made in private by the survivor, with God (or whomever the survivor perceives as controlling Life). The promise is made in an effort to "bargain" for the life of the deceased.

Survivors often make lavish commitments to live a better, more religious life; promise to give more attention to those they may have neglected; quit smoking; work harder/work less; or change whatever quality makes them feel guilty. There is a common desire to "atone" for their mistakes, large or small. Though law enforcement officers may be unaware of the specifics involved in the promise/bargain, they should be aware of the common behavior.

The basis for this behavior seems to come from childhood in

lessons learned from our parents. Children are often prone to become angry when refused a request. Frequently they will revise their approach by trying what they perceive to be a more adult behavior of bargaining (their parents) into what they desire. ("If I do the dishes every night this week....THEN may I go to the movie on Friday?") In both cases, the individual attempts to bargain with the Powerful One to meet their perceived needs. In times of extreme emotional trauma, it is not uncommon to revert to successful childhood behavior in an effort to correct an unacceptable situation.

Depression

Expectedly, depression is a common emotional condition observed in the grieving process. Ordinary depression is the common emotional "pit" people find themselves in during several other times of their life. Feelings are prone to "aw what's the use..." There is little or no energy to improve the circumstances or change one's emotional surroundings or outlook. Listless, and without hope, the individual plods through the steps of life. Often the fun, adventure and challenge of life seems gone, or at least out of sight.

The depression(s) that often accompany grief have a number of similar traits, but are somewhat different. Reactive depression can be seen spontaneously with the realization that a death has occurred. Reactive depression is the intense emotional plummet that occurs with understanding. Reactive depression might be thought of as being the fall into the pit (of depression.) It occurs quickly, but may not be long lasting. The best therapy is the comforting emotional support given by close friends. Specific words may be less important than the feelings of nonverbal support, friendship, and human compassion. Law enforcement officers must learn to communicate with feelings in addition to well chosen words. We must be more than the strong authoritarians we portray. We must be human.

Reactive depression may give way to a longer lasting form of preparatory depression. In the "falling into the pit" analogy used earlier, preparatory depression might be akin to hitting the bottom. It tends to come with recognition of the many life-style changes surrounding a survivor's immediate future. As an example, the realities of having to arrange a funeral; notify friends/relatives; attend to the deceased's final business matters; grope with insurance claims, death certificates, mortgage, etc. may be overwhelming. At the

same time the survivor will be privately concerned with having to meet existing financial commitments alone (not to mention the outright cost of a funeral...), often with little or no reserve funds. In the mist of all these spontaneous needs, the survivor will begin to consider the permanent life-style changes that have occurred. The immediately rearranged plans (future, retirement, companionship, etc.) may seem overwhelming.

While there is no single perfect answer, preparatory depression can be somewhat mitigated by helping the survivor realize their own ability to confront and conquer individual problems. A survivor generally needn't confront ALL the challenges ahead simultaneously. Likewise, attempting to do so will appear overwhelmingly complex, and may result in the individual's nearly total inability to function at any level.

Law enforcement officers can give significant assistance by suggesting what the first or second steps might be in the process of handling the deceased's affairs (i.e., who to contact regarding disposition of body/funeral plans, etc.). At the same time, being able to suggest a trusted friend, relative, minister, or reliable business partner as a source of guidance and counsel will often help the survivor gather some direction for the challenges ahead.

Acceptance

The final stage of grieving is the "acceptance" stage. Because of the time necessary to truly accept the death of a loved one, the law enforcement officer may very well not be present to observe this stage.

After the denial, anger, bargaining are over; there is generally a gradual calm that develops around the survivor. We call this state "acceptance" because the individual finally realizes the reality of the situation, its permanence, and at least some of the myriad ways in which life has/will be changed. The illusions are gone. The hope that God will intervene, or the dead person will return gives way to reality.

While it should not be interpreted as a happy stage, acceptance represents a leveling off of the emotional rollercoaster for all parties involved. In relation to the trauma of other stages it may seem more lighthearted, even happy. Don't misunderstand the moment, or the emotions. The emotional combat of denial, anger, etc. is over; reality has won, and long-term healing may begin. The emotional response

has likely been fatigued into submission, rather than either being restored or actually healed. Now is the time for the long-term supports to be brought into view.

One of the main concerns of survivors (beyond essential finances and services) is the degree to which the loss of the deceased will affect the survivor's (own) ability to interact with the world. Survivors are often confused and may think that without the deceased their ability to interact is diminished. In this state, the regular support of friends, family, and others within the social circle become extremely valuable. Too often, a death brings an emotional landslide pouring onto the survivor (from well-meaning friends) at a time when they can least cope with the added stress and strain. A kindlier, more effective approach is to give the survivor a less intensive, longer lasting system of visits, companionship, and attention.

A prime need at this point is to convince the survivors they have NOT been forgotten, and that they can successfully reintegrate to an active, functioning, happy life. Given gradual but continued visits and attention by friends and family, the survivors' "aleness" will be overcome, and replaced by more normal functioning.

While law enforcement officers may not be present for the acceptance stage, advising a close friend of these needs may indirectly help the survivor.

Conclusion

An understanding of these five stages will serve to help the sensitive professional law enforcement officer to assist individuals during a period of great personal need. At the same time, understanding his/her role in the process will serve to combat the guilt commonly felt by law enforcement officers during this delicate notification process. While it is necessary that officers be sensitive to the needs of the individuals they serve, it is not necessary that they carry feelings of guilt or responsibility for the situation. Officers must not confuse their roles in the situation; they are the messenger of the death notification, not the reason for the death notification.

SELF-HELP GROUPS-SURVIVORS OF HOMICIDE

American Association of Retired Persons Widowed Persons Service P.O. Box 199 Long Beach, California 90801	Support group for the recently widowed
Compassionate Friends P.O. Box 1347 Oakbrook, Illinois 60521	Parents who have suffered the loss of a child, from any cause.
Concerns of Police Survivors 16921 Croom Road Brandywine, Maryland 20613	(COPS) Survivors of police killed in the line of duty
Mothers Against Drunk Drivers 669 Airport Freeway Suite 310 Hurst, Texas 76053 (800) 438-6233	(MADD) Self-help support groups for those who have lost a loved one as a result of the actions of a drunk driver
National Organization for Victim Assistance 717 D Street N.W. Washington, D.C. 20004	(NOVA) Devoted to victim assistance and advocacy
National Victim Center 307 West 7 Street, Suite 1001 Fort Worth, Texas 70102	Devoted to victim assistance and advocacy
Parents of Murdered Children 1739 Bella Vista Cincinnati, Ohio 45237 (513) 721-5683	Parents who have suffered the loss of a child from homicide

THE IMPACT OF NOTIFICATION

It has now been documented that the most common subject of flashbacks for homicide survivors was their death notification. The following guidelines have been prepared to assist you in making an effective and compassionate notification.

- NOTIFICATION PROCEDURES - STAGE ONE GATHERING INFORMATION

- Get all available details concerning the victim - including
Name, sex, race, age, complete date of birth and address
- Confirm identity of deceased and current location of the body
- Make certain that personal property of the victim has been properly inventoried and know what is available
- Obtain all available details regarding the nature of the death including the exact time and medical cause of death, as well as the last words of the deceased if known.
- Obtain all available information concerning the suspected offender particularly if an arrest has been made
- Confirm survivor information including address
- Determine any special considerations concerning survivors such as heart condition, speech or hearing impediment that may effect notification

- NOTIFICATION PROCEDURES - STAGE TWO FINAL PREPARATION

- Notification should be made in person
- Should be made by two individuals whenever possible
Male - Female teams can be particularly effective as can personnel in uniform
- Notification should be made as soon as possible following

a positive identification

- If the notification is outside your jurisdiction make certain that local agencies have all the necessary information to make an effective notification
- Don't use radio for identification or other vital information concerning the deceased
- Maintain a low profile when arriving at the survivors home or office
- Prepare yourself! On the way to the notification talk about your feelings with your partner and listen as they talk about theirs

- NOTIFICATION PROCEDURES - STAGE THREE
COMMUNICATING THE DEATH

- Gain entrance by properly identifying yourself and your partner
- If a child answers - Ask to speak with an adult
- Be certain that all parties are comfortably seated
- Confirm the identity of the survivor
- Convey the information simply and directly-

EXAMPLE : "I have some very bad news for you . Your son was shot in an armed robbery and he died immediately"

- Make certain not to contributing to the survivor's anxiety or yours...by moving too slowly to the fact of the death
- Use plain language. Avoid police jargon or phrases like - " No longer with us " or " He's in a better place " and never say " I understand how you feel " unless... YOU HAVE PERSONALLY EXPERIENCED THE SAME LOSS.
- Permit some adjustment. Survivors can only process limited amounts of information during times of crisis
- Keep the notification SIMPLE AND DIRECT. Don't go into graphic details concerning the death unless requested by the survivor

- SPEND SOME TIME WITH THE SURVIVOR - LISTEN - REFLECT
- During the notification - Be aware of the emotional state of the survivors. Be ready to call for assistance if necessary in dealing with extreme violence or medical emergencies resulting from the notification
- Be aware of any dangerous objects nearby such as knives, scissors, drugs or alcohol

- NOTIFICATION PROCEDURES - STAGE FOUR
POST NOTIFICATION

- Assist survivors with immediate needs, like making calls
- Make certain that family or friends are available for emotional assistance and support. Arrange for someone to come to the home before you leave.
- Prepare survivors for what comes next in terms of:
IDENTIFICATION - AUTOPSY - HOSPITAL PROCEDURES.
If identification is necessary, transport the survivor to the hospital or morgue.
- Prepare survivors for contact by other law enforcement representatives such as investigators
- Prepare the family for dealing with the media. Offer to help them prepare and/or deliver a statement
- Provide survivors with your phone numbers and the names and numbers of others in your Department such as chaplain that may assist
- If a defendant was apprehended, be prepared to answer questions concerning the nature of criminal charges, general information about the defendant, whether the defendant has been released and information concerning pending court proceedings. REMEMBER - That according to Federal law survivors of homicide are victims, entitled to all information and services specified by the Victim Witness Protection Act
- Call the next day, or if possible visit the home in person

As the initial shock wears off survivors will likely have more questions to answer. This may be a good time to discuss support services such as: Compassionate Friends, M.A.D.D., or POMC. In some Districts, Referral to the Federal Victim Witness Coordinator may also be appropriate at this time.

- In the months that follow, Be sure to keep the survivor informed regarding the status of your investigation. When making contact with survivors be sensitive to issues such as ...the birthday of the deceased, wedding anniversaries and the anniversary of the death.
- ABOVE ALL LET THE SURVIVORS KNOW YOU CARE! THE LAW OFFICIALS MOST RESPECTED BY SURVIVORS ARE THOSE WHO JOIN THE SURVIVORS IN THEIR GRIEF

CONCLUSION:

Many survivors encounter emotional difficulties as they attempt to both understand and process the emotions that are part of the five stages of grieving at the same time that they are trying to deal with:

1. THE EMOTIONS SYMBOLIC OF ALL VICTIMS OF CRIME
2. THE DIFFICULTIES OF TRYING TO UNDERSTAND AND MAKE SENSE OUT OF A SYSTEM ABOUT WHICH THEY KNOW VERY LITTLE...THE CRIMINAL JUSTICE SYSTEM.

Few homicide survivors can effectively master both tasks simultaneously, often resulting in their being emotionally forced to choose between grieving over the loss in the classical sense described by Kubler-Ross and focusing on understanding the activities which surround the administration of justice.

All too often families are split between how they cope during this difficult period. It is not uncommon for the male survivor to be the most obsessed with what is happening in the system and to show little or no emotion concerning the loss. At the same time within the same family, the female survivor may be extremely emotional over the loss and disinterested in the criminal case process. Communication between survivors can be difficult as neither understands the behavior of the other during this period. The result for many can be separation or divorce. As law enforcement investigators realize that dealing with survivors during this turbulent pe-

riod can be difficult but that your sensitive concern during
this time will be appreciated ...forever.

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