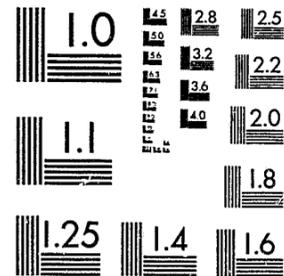


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National Institute of Justice
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Department of Justice

STATEMENT

OF

WILLIAM R. MCGUINESS
DEPUTY ASSOCIATE ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE

BEFORE

NCJRS
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APR 2 1984
APR 2 1984
ACQUISITIONS
ACQUISITIONS

THE

SUBCOMMITTEE ON CRIMINAL JUSTICE
HOUSE COMMITTEE ON THE JUDICIARY

CONCERNING

H.R. 3498 - VICTIM COMPENSATION

ON

MARCH 15, 1984

15356

U.S. Department of Justice
National Institute of Justice

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Mr. Chairman and Members of the Subcommittee,

I appreciate this opportunity to appear today on behalf of the Department of Justice to discuss H.R. 3498, the Victims of Crime Act, as well as the Administration's Victims of Crime Assistance Act. Assistant Attorney General Lois Haight Herrington will address the substantive provisions of this bill in detail. Before proceeding to the issue of victim compensation, however, I would like to take just a few moments to discuss our approach to the larger universe of victim assistance issues.

On August 17, 1981, the Attorney General's Task Force on Violent Crime issued its final report. In that report, the Task Force recognized the pivotal role of victims and witnesses in the criminal justice system. Among the specific recommendations of the Task Force was a call for federal standards for the fair treatment of victims of serious crimes and for a study of victim compensation programs.

On April 23, 1982, President Reagan signed Executive Order 12360 establishing the President's Task Force on Victims of Crime. This Task Force, chaired by Lois Herrington, was created to address the needs of the millions of Americans who are victimized by crime each year. The Task Force heard formal testimony in six cities, from over 200 witnesses and consulted approximately 1,000 other experts and victims. The final report of the

Task Force, which was submitted in December of 1982, made extensive recommendations for executive and legislative action at the federal and state levels to improve treatment of, and services to, crime victims. Specific recommendations contained therein related to the necessity of federal legislation that would provide funds for state crime victim compensation and victim/witness assistance programs.

During the period when the Task Force on Victims of Crime was conducting its hearings, the Congress commenced deliberations upon the Victim and Witness Protection Act of 1982. That measure enjoyed virtually unanimous support in the Congress and was quickly approved by the Senate and House. On October 12, 1982, the President signed the Victims and Witness Protection Act into law as P.L. 97-291. As you know, the stated purpose of the Act is to "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 upon the constitutional rights of the defendant."

Because of the importance of that Act, the balance of my remarks will be directed to a brief discussion of its most significant aspects and the current status of their implementation by the Department of Justice. Section 3 of the Victim and Witness Protection Act of 1982 requires the inclusion of a victim impact statement as part of a presentence report filed pursuant to Rule 32(c)(2) of the Federal Rules of Criminal Procedure.

Effective March 1, 1983, presentence investigations include an appropriate section describing the impact of the offense upon the victim. The primary objective of this provision is to ensure that information pertaining to the effect of the crime upon its victims is brought to the attention of the sentencing court.

With regard to Section 4 of the Act, which involves obstruction of justice and witness tampering provisions, we have communicated to the United States Attorneys in the field as well as to all Department of Justice attorneys the important changes in the obstruction of justice laws and have provided them with detailed guidance through the U.S. Attorneys' Manual, as to the application of these provisions. Significantly, Section 4 of the Act provides for a civil injunctive remedy to restrain harassment of victims or witnesses, and Section 8 of the Act makes non-violation of these intimidation and harassment statutes a condition of any release on bail. The Criminal Division of the Department has maintained ongoing supervision of these statutes to provide necessary advice to prosecutors and to resolve issues which may arise in the application of those statutes.

The Victim/Witness Guidelines mandated by Section 6 of the Act were issued on July 9, 1983, by Attorney General William French Smith. These guidelines entail a significant administrative directive to Department of Justice components with respect to the delivery of victim services and assistance contemplated by the Act. The guidelines incorporate all the recommendations in

the Victim and Witness Protection Act of 1982 as well as some proposals of the President's Task Force on Victims of Crime. The basic approach of the Guidelines is to set out general guidance as to the rights of victims and witnesses and the obligations of prosecutors and investigators.

These guidelines apply to all Department of Justice components engaged in the detection, investigation or prosecution of crimes and are intended to apply in all cases in which victims are adversely affected by criminal conduct or in which witnesses provide information regarding criminal activity.

The Attorney General's guidelines establish procedures to be followed in responding to the particular needs of both crime victims and witnesses. They are intended to ensure that responsible officials, in the exercise of their discretion, treat victims and witnesses fairly and with understanding. The guidelines are also intended to enhance the assistance which victims and witnesses provide in criminal cases and to assist victims in recovering from their injuries and losses to the fullest extent possible, consistent with available resources. Special attention is directed toward victims and witnesses who have suffered physical, financial, and emotional trauma as a result of violent criminal activity. The amount and degree of assistance provided will, of course, vary with the individual's needs and circumstances.

These actions were followed, on August 29, 1983, by a set of comprehensive instructions to all United States Attorneys, issued by Associate Attorney General D. Lowell Jensen, pertaining to the implementation of the restitution provision of P.L. 97-291. Since the restitution provision of the Victim and Witness Protection Act raised a number of issues relating to the prosecution of criminal offenses, these instructions sought to address these outstanding questions and to provide a common Department policy and approach regarding restitution matters.

Concurrent with the issuance of the Attorney General's Guidelines, the Executive Office for U.S. Attorneys distributed materials to all U.S. Attorneys designed to aid their offices in meeting the obligations under both the Act and the Guidelines during the initial phase of implementation. These materials, as well as internal office procedures, are currently being refined. In addition, the Administration's FY 1985 budget has requested \$3,090,000 to fund 94 Victim/Witness-LECC coordinator positions for U.S. Attorneys' Offices. These Victim-Witness coordinators would help to ensure that the Act and guidelines are implemented as fully and expeditiously as possible.

To assist prosecutors, victim-witness coordinators, and other Departmental personnel charged with implementing the Act, the Department has initiated formal training sessions. The Attorney General's Advocacy Institute has for some time included course material directed toward new prosecutors and their

responsibilities under the Act. In April, personnel from each U.S. Attorney's Office, investigative agency and litigating division will attend a training session designed to address implementation of the Act. A Technical Assistance Team comprised of Department attorneys has been designated to visit representative United States Attorney's Offices in order to fully assess training needs. Furthermore, the FBI has initiated training of agents at the FBI Academy in Quantico on this subject and the Federal Law Enforcement Training Center in Glynco, is likewise developing a program to be included in their training structure.

Finally, the Department of Justice has forwarded to Congress for consideration the Administration's Victims of Crime Assistance Act of 1984. As you know, this bill would authorize federal financial assistance to state victim compensation programs and would improve the assistance offered by every level of government and the private sector to victims of crime.

Assistant Attorney General Lois Haight Herrington will address the specific provisions of the bill and compare that proposal with H.R. 3498. I appreciate this opportunity to address the Subcommittee.

END