

**MAKING IT WORK: ADDRESSING VICTIM CONCERNS
THROUGH COMMUNITY CORRECTIONS PROGRAMS**

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FOREWORD
(To be added by the National Institute of Corrections)

PREFACE AND ACKNOWLEDGEMENTS

The 1980's has seen many shifts in the role of the crime victim in the criminal justice system and the roles of community corrections practitioners. This monograph explores the relationship of this growing phenomenon. What are the apparent strengths and weaknesses that affect the marriage of community corrections and victim services? How can a jurisdiction enhance or develop collaborative strategies between victim advocates and community corrections?

Much of the knowledge presented here has grown out of the partnership between the Program Resource Center at Rutgers University School of Criminal Justice, the National Organization for Victim Assistance (NOVA), the American Probation & Parole Association (APPA), and the National Association of Probation Executives (NAPE). For the past three years, we have been working together in an effort to develop qualitative and quantitative improvements in services offered to victims by community corrections staff, without undermining the rights and needs of offenders. A primary goal has been to prevent or remove the antagonistic flavor of relationships and promote understanding and cooperation. Just as an orchestra needs a variety of instruments and players to perform a symphony, so does the criminal justice system in addressing victim related concerns.

Special thanks goes to Sharron Brown, a graduate student at Rutgers University, School of Criminal Justice for her patience and tenacity in refining the context and format of the monograph and contributions of the illustrations contain herein. Without her assistance, this monograph would never have come into sharp focus. For the first two years of the project, Omolola Omole, a Ph.D. Student at Rutgers University, School of Criminal Justice, was instrumental in laying the foundation for collaboration. Her dedication, enthusiasm and foresight helped to shape this work, particularly in the design and implementation of a national survey in the area of victim advocates and probation services to crime victims. She was active in convening the first meeting of the National Advisory Board for victims and probation, and in the various preliminary stages toward implementing training in the states. Ellen Chayet, Ph.D., Assistant Director, Rutgers University, Program Resource

Center and the National Advisory Board deserve special recognition for their collaboration on this initiative and for their input and critique. Touraine Coleman deserves many thanks for her often thankless job of typing revision upon revision of this monograph and for politely substituting the correct preposition or adverb. The National Institute of Corrections (NIC) is to be applauded for its support, but most importantly, for its recognition of the potential for collaboration in the victim and community corrections arena. Under the leadership of George Keiser, the NIC has demonstrated a visible commitment to "making it work."

Lastly, participants of the training sessions, where we tested our evolving body of knowledge on this subject, are to be commended for their foresight, enthusiasm, and honesty.

Note: For the purpose of brevity, the term victim is used interchangeably with crime victim.

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WHAT IS COMMUNITY CORRECTIONS?

Holding offenders accountable for their behavior within the the local community is the underlying philosophy of community corrections. One integrative perspective of community corrections stems from a recognition that victims and offenders are both members of a community.

Community Corrections utilizes community resources to:

- 0 Punish the offender.
- 0 Provide treatment opportunities to the offender (such as drug, alcohol, and mental health counseling, job training, educational opportunities).
- 0 Protect the public by managing offender risk (for example, requiring use of urinalysis, curfew, residence requirements).
- 0 Provide opportunities for an offender to make reparations to the victim and society (such as use of financial restitution, community service, victim/offender mediation).

Probation and parole form the backbone of community corrections. Probation is a community sentencing sanction designed to hold offenders accountable for their criminal behavior. Parole on the other hand, focuses on reintegrating the offender back into the community. Unlike probation, the offender released on parole has served part of the sentence in a correctional institution. Both probation and parole utilize community resources and surveillance as tools to monitor offender behavior.

Together, probation and parole constitute the most popular sanction available. In 1986, approximately 75% of the persons under correctional supervision were on probation and parole as compared to almost 17% in prison"

A Concern for Victims is a Key Element

Community corrections, through its work with offenders, routinely assists victims in meeting their concerns within the criminal justice system. For example, probation and parole officers:

- 0 Prepare the Victim Impact Statement (VIS) which may be used as a tool in sentencing the offender.
- 0 Monitor the payment of restitution to the victim. This may include collection, disbursement, and victim notification in the event of nonpayment.
- 0 Monitor community service orders.
- 0 Enforce no contact conditions particularly in cases involving spouse or child abuse.
- 0 Supervise drug/alcohol/mental health treatment and job training. This is of particular concern when the victim and the offender are known to one another.

A national survey conducted in 1985 showed that a number of departments provide direct services to crime victims including:

- 0 Counseling and referrals
- 0 Transportation and escort services to court
- 0 Mediation
- 0 Restitution **determination.**²

The Victim Advocate

Victim advocates ease the victim's path through bureaucracies, especially those in the criminal justice system. The victim advocate assists the victim in getting the services that are needed and wanted and sometimes act on a victim's behalf. For example, they accompany the victim to court, gather information, and most importantly, explain the justice process to a crime victim.

The survey previously cited, demonstrated that many services provided to victims by probation and victim advocates overlap. The figures below, from the nearly 100 responses received are an illustration of how often probation officers (PO) and victim advocates (VA) are likely to provide a given service to victims:

1. Preparation of Victim Impact Statement
 - PO 68%
 - VA 80%
2. Collection of Restitution
 - PO 92%
 - VA 43%

3. Monitoring of Community Service Orders
 - PO 90%
 - VA 36%
4. Crisis Intervention Counseling for Victims
 - PO 26%
 - VA 89%
5. Transportation and Escort Services for Victims
 - PO 16%
 - VA 89%
6. Provision of Interpreters
 - PO 32%
 - VA 68%
7. Completion of State Compensation Claims
 - PO 22%
 - VA 75%
8. Contacting of Relatives
 - PO 26%
 - VA 82%
9. Caring for Children
 - PO 6%
 - VA 66%

In many places, community corrections and victim advocates are working together. For example, probation and even parole officers provide victim advocates with:

- 0 updates on financial and community service restitution;
- 0 updates on offender treatment when appropriate;
- 0 assistance in completing the VIS;
- 0 offender release date information from jail, prison, work release and other treatment facilities.

Summary

Community Corrections, as our largest and most extensive sanctioning system, has tentacles that reach deep into the community. With the recent emergence of the victim advocate, the potential to harmonize and fortify the melodies played by community corrections exists. Before an orchestra can play a symphony, it requires a score of music. Community Corrections and the victim advocate provide the score from which to play.

THE ROLE OF COMMUNITY CORRECTIONS IN ADDRESSING VICTIM CONCERNS

A Historical Perspective

Prior to the 19th Century, victims played a central role in the criminal justice system, both in the apprehension and in the prosecution of offenders. As our system of laws became more codified, the emergence of public prosecution led to a gradual decline in the victim's central role. As a result, the victim's case became the state's case. The victim's primary role was reduced to that of a witness or observer in court processes.

In the 1970's, victims began to express dissatisfaction with their trivialized role. The victim's movement emerged both as a way to combat the increasing lack of cooperation exhibited by the victim as a witness and as a means to involve victims more directly in the prosecution process. By 1980, hundreds of local assistance programs were established around the country, most frequently in the District Attorney's Office. These programs sought to alleviate problems which appeared, on the surface, to lead to non-cooperation. Some of the problems included, sacrificing workdays, transportation and childcare needs, and lack of knowledge about the legal system. These efforts, while facilitating increased services and awareness, failed to address the more pressing concerns of crime victims... meeting their immediate physical and emotional needs. This shortcoming laid the foundation for the growth of more generalized victim services.

The Role of Probation and Parole

Since 1925, when probation departments became a standard component of the criminal justice system, Pre-sentence Investigation reports (PSI) have been utilized. The PSI, which describes an offender's criminal and social history, is the primary assessment tool that judges rely on in making sentencing decisions.

It wasn't until 1982 that Victim Impact Statements (VIS) became the norm in most states. The VIS is the primary vehicle for obtaining victim input into sentencing decisions. It addresses such issues as:

- 0 financial loss
- 0 personal injury
- 0 emotional injury.

As of 1987, forty-eight states have a standard format for the VIS. Many states mandate or permit the inclusion of the VIS into the PSI report. (See Appendix A for a sample VIS).

It wasn't until the last few years that the VIS became a frequently used part of the parole process. Paroling authorities in at least 29 states now consider the victim impact statement when making release decisions and setting parole conditions.

Victims and probation and parole have had no formal relationship until recently. Today, probation and parole professionals have greater interaction with victims and victim advocates on both a formal and an informal basis.

An Opportunity for Community Corrections

In many jurisdictions, community corrections has a clear mandate to work with victims preparing the PSI, collecting the VIS, and monitoring offender restitution, to cite just a few examples. Addressing victim concerns is not only logical, but also critical to community corrections practitioners. It provides an opportunity to strike a balance in serving offenders and victims within our communities.

Other agencies duplicate what probation and parole officers already do as a part of their job in working with the offender. The national survey, cited previously, showed that it is quite common for the district attorney, a private victim services agency, and probation to perform the same task within a given jurisdiction (such as determining restitution, collecting restitution, and preparing the VIS).³ This is not cost effective. Likewise, it is not cost effective for probation and parole to duplicate what other agencies can more capably do in serving victim concerns.

Gaps and duplication in services lead to a fragmented system in which there is an increased likelihood that the victim will "fall through the cracks". The victim, often the silent partner in the criminal justice process, will once again feel victimized. This can result in the victim feeling angry, frustrated, isolated, and helpless. Many officials, in wanting to alleviate the victim's pain, press for punitive and costly sanctions for offenders. Ironically, such actions may fail to address the victim's needs.

The Problem

Probation and parole officers may feel ambivalent towards providing victim services. It is often not an explicit goal or priority of a community corrections department to deal with victims. Rather, a probation and parole officer's job is frequently defined in relation to offender behavior within the community (probation) or offender reintegration (parole). While protecting society may be a salient goal of community corrections, this goal may be unrelated to addressing an individual victim's concerns.

Generally, resources in community corrections are allocated for offender related services. Likewise, job appraisal is attached to offender supervision. In addition, probation and parole staff are not routinely trained to work with victims or victim advocates. Rarely, is funding available for such training.

As a result, probation and parole officers must utilize their existing skills and resources to both address victim needs and supervise offenders. This dual role creates confusion and conflict, particularly where duplicative victim services are provided and obvious service gaps are perceived.

Community corrections staff would often like to see a better balance in their work. They may feel inadequate, given the limited resources, in addressing victim interests. They may also be uncertain of how to integrate victim concerns since their primary function is offender diagnosis and supervision.

Lastly, there is not a strong constituency for bridging services to victims from the community corrections field. Victims and their advocates say they are being short-changed -- that community corrections is unresponsive and ill-equipped to handle their needs. Probation and parole officers are overwhelmed and confused. Frustration and anger mount as both groups try to attempt a huge job without the proper resources and training.

Summary

Role confusion, inadequate definition, and sometimes rivalry between community corrections and victim services for limited funding hamper effective service delivery to victims. Referring to our analogy of the symphony, the score of music is there. However, the orchestra is producing discordant sounds. The french horns are competing with the flutes and violins and the percussion's beat is slightly out of sync. With a bit of fine tuning and practice, this orchestra can play a fine, fine symphony.

TRENDS IN COMMUNITY CORRECTIONS AND THE PROVISION OF VICTIM SERVICES

As of 1987, forty-four states have Victims' Bill of Rights (VBR). There are many salient components of these bills that directly relate to community corrections. (see Appendix B for a Model Bill of Rights). The examples that follow are standard components of VBR which relate to community corrections.

The Victim Impact Statement

As was previously mentioned, the VIS has evolved as a key element of the presentence investigation report prepared by the probation department at the time of sentencing. In like manner, it has become a major component of the information package developed by parole at the time of possible institutional release. The VIS gives victims a voice they did not have before and, at the same time, provides them with new insight into how the facets of the criminal justice "system" function. Clearly, the VIS is beneficial to victims. Perhaps this is why there has been a dramatic increase in the prevalence of VIS since 1982 (see Figure 1).

There are some problems, however, with the use of the VIS by probation and parole:

- 0 There is little or no opportunity for victim input into sentencing decisions when no PSI is ordered. This is often the situation in misdemeanor cases, crimes carrying minimal, if any, incarceration, and plea bargained cases.
- 0 Victims may not want to participate in the criminal justice process, preferring to forget about the crime and its impact on their lives or they may want to avoid the problems inherent in our criminal justice system. They may not understand the purpose or the benefits of the VIS and they may be angered by its limitations. Fear of retaliation may also inhibit participation.
- 0 Probation and parole officers may not be trained to elicit the VIS from a victim. An officer may feel uncomfortable in talking to a victim, uneasy about the use of a particular VIS,

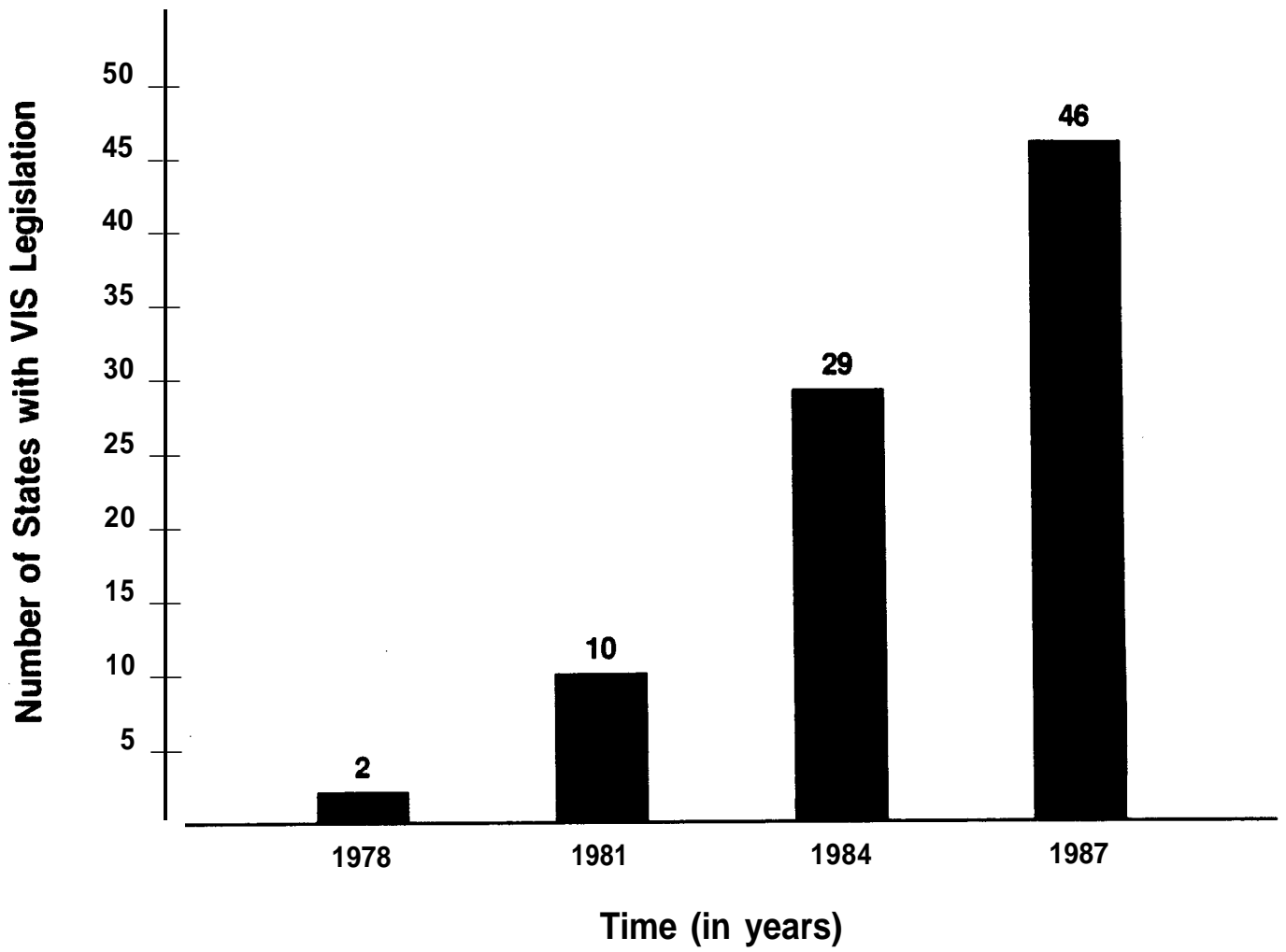


Figure 1: Growth of VIS Legislation

ambivalent, or too pressed for time to complete a report.

- 0 VIS may not be given the desired status. For example, in the U.S. Supreme Court case of Booth v Maryland, a judge ruled the VIS inadmissible for sentencing purposes in capital punishment cases. It is often up to a judge, jury, or parole board to weigh and use the VIS as they see fit.
- 0 The purpose of the pre-parole release statement by a victim must be fully examined. In spite of an excellent institutional record, (the purpose of corrections) adverse victim sentiment might effect the parole decision. How should a victim impact statement at the time of parole relate to the VIS at the time of sentencing? How can the VIS be used constructively to address victim concerns?

Financial Restitution and Community Service

The responsibility for monitoring community service restitution (CSR) almost always resides with the probation department. In many jurisdictions, it is also probation's responsibility to collect and disburse financial restitution. However, it is quite common for the District Attorney's Office, victim service provider, an official of the court, or a private non-profit organization to also collect and disburse monetary restitution and even oversee a community service order. As previously stated, this duplication creates fragmentation. In addition, the priority placed on victim services and victim satisfaction is dependent upon which agency oversees the restitution. This may affect how quickly and how well a victim's interest is served.

For example, consider a probation officer who is supervising up to 75 cases. Victim restitution may be only one of numerous (sometimes more than 18) conditions, imposed by the court, that constitute an offender's sentence. A number of other financial conditions, such as court costs, attorney fees, fines, and supervision fees are routinely ordered. How does the officer prioritize these obligations? How important is enforcement of the restitution condition?

Another example is community service and its relationship to the victim. While community service restitution is popular as a form of punishment, the victim often perceives it as unenforced and secondary to other treatment-oriented

conditions (drug or alcohol counseling). CSR may be seen by a victim as symbolic restitution to society at-large; a public service sanction that does little to meet the specific needs of a crime victim.

A final example is that of a victim who is notified of an offender's release from prison and a restitution order to be paid monthly. Five months elapse and still, no payments are received. What the victim does not know is that the offender is having difficulty obtaining employment upon release. The victim spends hours trying to find out what is happening. The paroling authority tells the victim to call the court. The court has no record of the case. Whose responsibility is it to find out what happened?

These examples underscore several points:

- 0 Different agencies weigh the enforcement and importance of victim and community service restitution differently.
- 0 Staffing and resource availability will influence the effectiveness of the restitution order.
- 0 Employment and employability of an offender play a role in financial and community service restitution determination, compliance, and reimbursement.
- 0 Victims are often not kept informed about the status of the restitution order. They should not have to roam from agency to agency seeking this information.
- 0 In the event of a change in offender status, a forum may not exist to encourage victim participation in negotiating a new or reduced payment schedule.
- 0 There is often no coordination among agencies with attendant responsibilities clearly defined.
- 0 Once an offender completes his sentence, either through incarceration or in the community via probation or parole, there is rarely a mechanism to retrieve unpaid victim restitution.

It should be noted that in several states, restitution is being ordered as a condition of parole. Paroling authorities are now collecting and disbursing these monies and in many states, are charged with the responsibility of notifying a victim of an offender's release from prison or jail. Parole officers experience dilemmas similar to probation staff: uncertainty in working with victim advocates, lack of training, competition for resource allocations, and role conflict.

Victim/Offender Mediation Programs

During the past decade, a network of victim offender mediation programs has developed in nearly 100 jurisdictions across the U.S. These programs serve as a sentencing alternative for offenders and provide victims with the opportunity to be directly involved in the criminal justice process. Victims of primarily property crimes and their offenders are brought together in the presence of a trained staff or volunteer mediator.

Victims are able to get answers to questions such as "why me?" They are able to let the offender know what it feels like to be victimized. Offenders begin to learn the impact of their criminal behavior upon the victim as a person, rather than as an object. Both victim and offender work at negotiating a mutually agreeable restitution plan for submission to the court.

Victim offender mediation programs represent one of the more creative strategies for attempting to address the needs of both offenders and victims. Mediation programs can empower victims, by having such direct and personal involvement in the justice process. As a sentencing alternative, these programs encourage offenders to take responsibility for their behavior by being personally accountable to their victim. Victim offender mediation programs, some of which are called VORP (Victim Offender Reconciliation Program), work with both juvenile and adult offenders, at both a pre- and post-conviction level.⁵

Summary

The new role of the victim advocate, the increased role of the probation and parole officer, and the court's imposition of sentences to reflect victim concerns are omnipresent. Providing opportunities for victim input and delivering concrete services to victims is now an integral part of community corrections' work. Think of the conductor of an orchestra who adroitly draws out each instrument's unique

qualities. Recognition of the victim role and sensitivity to victim concerns is now eliciting sound, if not music, from the various criminal justice system components.

DEVELOPING COLLABORATION BETWEEN COMMUNITY CORRECTIONS AND VICTIM SERVICES

Building Collaboration

In order for community corrections and victim advocates to systematically provide the best services possible to crime victims, they need to work together. As obvious as this sounds, it only rarely occurs. There is no glamour, no glory, and no substantial amount of money for such initiatives...and the yield is not immediately seen as tangible or necessary. Collaboration invokes groans and grunts because it appears like more work, not less. Nevertheless, the objective is to obtain more comprehensive and effective services for crime victims. This is a goal well worth the efforts involved.

Given the duplication of existing services and fragmented service delivery to victims, there is a pressing need to build a constituency. An integrative process is critical to ensure continuity and delivery of services to victims, as well as to maintain sensitivity to their relegated role within the criminal justice system. New resources aren't necessarily required, but close examination of their utilization is critical.

Major Principles of Collaboration

There are four major principles demarking collaboration:

- 0 Collaboration is an ongoing process.
 - 0 There are many approaches to collaboration.
 - 0 Collaboration must respond to a need.
 - 0 Collaboration requires initiative.
1. Collaboration is an Ongoing Process. It does not take place at a fixed place in time, but is emergent in nature. In order to adapt and reflect local environmental and political shifts, it is a process that requires continual input, flexibility, and openness. Usually, it has components that are both formal and informal.
 2. There are Many Approaches to Collaboration. There is not a right or wrong way, just different ways.

From locality to locality, or state to state, aspects of a collaborative effort will vary. They will reflect differences in the needs and voids to be addressed, agency goals and resources, community resources and values, political context, and formality of the initial relationship.

3. Collaboration Must Respond to a Need. Victim advocates and other key criminal justice and community officials such as representatives from the judiciary, District Attorney's Office, public defenders, and social service providers, must find a common denominator around which to rally. This may be an obvious void in service delivery or a perceived problem regarding communication. Whatever the need(s), it must be articulated. There should also be agreement about its salience, and the benefits to individual participants must be obvious. For example, the VIS is of interest to the victim, probation and parole, the prosecutor, the judge, and the offender.
4. Collaboration Requires Initiative. A catalyst, usually in the form of a person acting on behalf of an agency, must initiate the collaborative process. The initiative or motivation to do so is often derived from a nagging need or crisis. Once the process is spawned, leadership must be sustained in order to ensure active participation. Such leadership can be visible or invisible, depending on the feasibility of adapting it to a given environment. The involvement of Mothers Against Drunk Driving (MADD) typifies the the potential impact of a national catalyst.

Major Elements of Collaboration

As a complement to the principles listed above, there are elements which constitute the ingredients of victim/community correction collaboration:

- 0 Role clarification
- 0 Inter-agency relationships
- 0 Training
- 0 Information Sharing

1. Role Clarification. The first step in a collaboration process is to delineate the formal and informal activities by both community corrections and victim service providers. Underlying values of each agency must be articulated. Also, the current

relationship among the various agencies must be established. It is helpful to explore perceptions and expectations between agencies.

2. Formulate Inter-agency Relationships. Once the roles are clarified, it is important to clearly spell out which agency is responsible for what activities. Inter-agency agreements, referral forms, and other necessary documentation are needed to formalize responsibilities. Responsibilities, roles, and inter-agency agreements should be reduced to writing and signed by all participating agencies. A liaison from critical agencies (such as the victim services agency, the probation department, the district attorney) should be designated to deal with day to day issues. This makes it easier to track information and solve problems immediately. Lastly, it is useful to tap into an existing criminal justice working group or, if necessary to create a new one. This paves the way for unity and consolidated efforts in addressing the victim's concerns.
3. Train Staff. It is critical to provide a forum for exchanging information. 'Training provides an opportunity for encouraging sensitivity to the victim's needs and to community corrections' mandates. For example, it would be useful for a probation officer to learn why it is so important to collect a victim impact statement. Conversely, learning about the constraints a probation and parole officer face creates realistic expectations which a victim advocate can pass on to a victim.
4. Share Information. After services have been integrated, staff trained, and specific programs designed to meet victim needs identified, people should be told about the efforts. Public accessibility of this information encourages community response and provides an opportunity for citizens to take responsibility. Brochures, newspaper articles, and public speaking forums are natural mechanisms for ongoing communication. It is also a good practice to increase awareness to those service providers, such as mental health counselors, who would benefit from referral.

Highlighting where gaps are still present is also necessary. This will encourage community corrections practitioners and victim advocacy agencies to work together towards their eventual elimination.

Mapping the Environment

One of the initial or preparatory steps in achieving collaboration is environmental mapping. This process, which requires the participation of all agencies related to the provision of victim services, consists of several facets: finding out who's providing what services to victims, indicating voids in the provision of services, and earmarking available resources. We have designed a tool which can assist agencies in this task. (See Appendix C). As a final step in this process, duties should be clearly specified and understood, roles delineated and responsibilities for various functions regarding the victim established.

An example of a victim and community corrections collaboration model is presented in Figure 2.

Summary

In order to lay the foundation for systematically addressing victim concerns, it is critical to first assess which agencies are currently providing what services. Once gaps are identified and purposes articulated, community corrections and victim advocates can work together to strengthen services to crime victims. Gradually, and with patience, hard work, and practice, the violins, the flutes, the horns, and the percussion will join in creating music.

MODELS OF COLLABORATION

State Approaches

This chapter highlights some of the different approaches taken by a select group of jurisdictions, agencies, and organizations. As mentioned in Chapter IV, these descriptions demonstrate the significant influence of local values and resources in determining the strengths and weaknesses of different collaborative approaches.

South Carolina

South Carolina is exemplary of a community corrections division's collaboration model. The state's Department of Parole and Community Corrections (DPCC) plays an integral role in the development of collaborative efforts among victims, victim advocates, and the statewide community corrections system. Two full-time victim services staff are

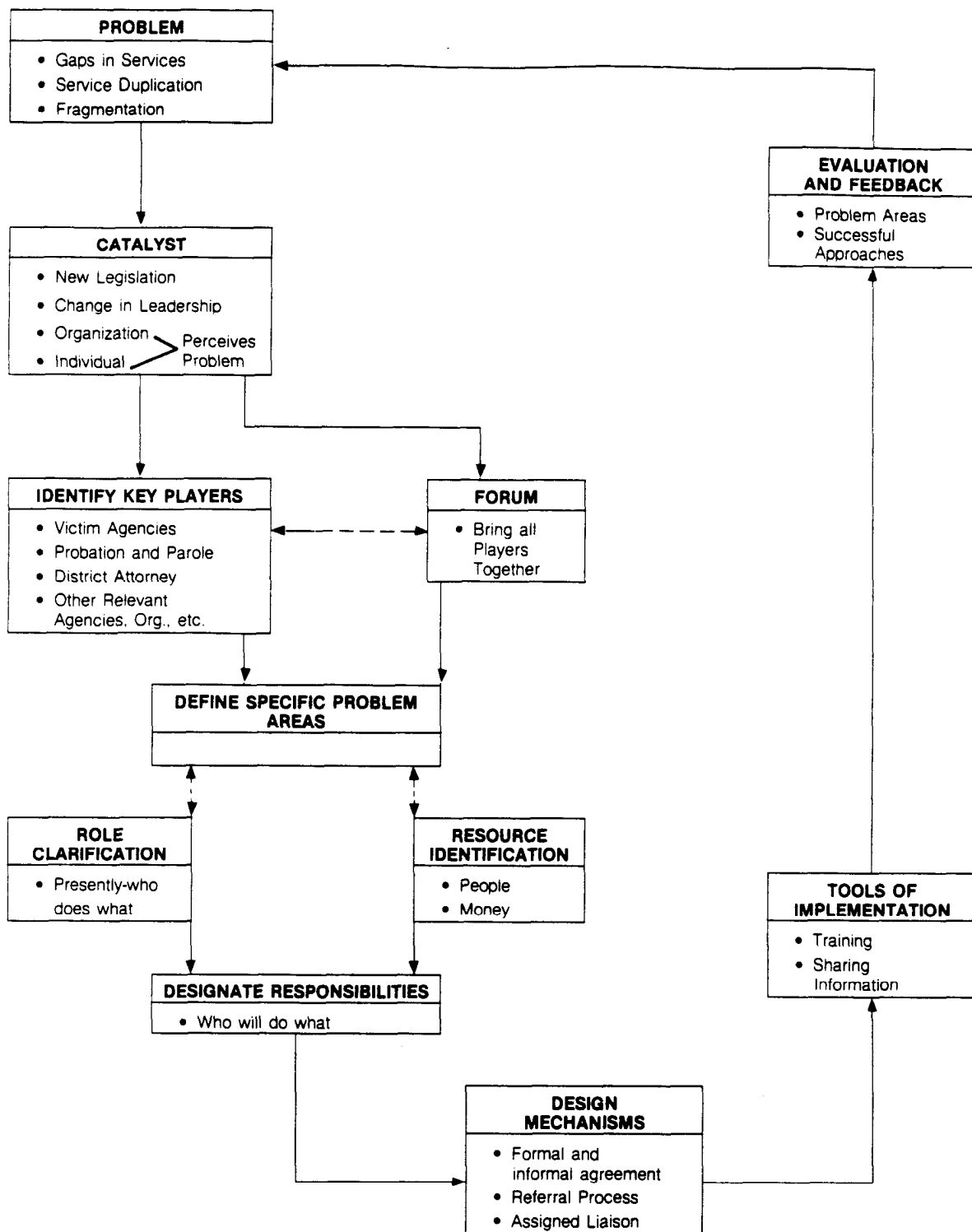


Figure 2: Victim and Community Corrections Collaboration Model

employed in the DPCC Executive Division. Not only are they active in planning and developing services to victims by community corrections professionals, but they, too, attend weekly parole meetings and maintain close communication links with victim advocates at a local, state, and national level.

The DPCC is actively involved in monitoring and improving the information flow from the solicitor's offices (district attorneys) where victim impact statements are prepared, to the agency's local field services. Through this effort, improvements are made in the accuracy and consistency of restitution information. In addition, a network has been established whereby victims receive notification of an offender's case status from the appropriate agency.⁶

Utah

Utah, exemplifies a multi-level collaborative strategy. First, there is a Coordinating Council comprised of representatives from various governmental and private agencies. The Council, which meets monthly, fosters coordination of services to crime victims. It also lobbies for legislation, promotes and monitors media coverage, and sponsors an annual victim's conference. Currently, Council members are working towards the development of a training video pertaining to victims and the establishment of a statewide victim advocate's association.

Another level of collaboration involves the Director of Field Operations in the Department of Corrections as an active participant of the Governor's Task Force on Victims. The Director works closely with representatives from the Executive, Judicial, and Legislative branches of government to ensure that community corrections services are addressing victim-related issues sufficiently and successfully.

The last area of community corrections/victim collaboration in Utah centers on the victim impact statement and victim restitution distribution. Probation officers collaborate with victim witness programs, housed in county attorney's offices, in preparing the VIS.⁷

Vermont

A third state, Vermont, demonstrates how a community corrections division maintains and develops sensitivity to victim concerns as a part of their job in providing offender related services. In 1986, when the legislature created an

office of Victim Assistance, probation and parole officers were already examples of how community corrections could address victim concerns. Vermont's experience clearly shows that community corrections professionals can informally collaborate with the criminal justice system and with victims and victim advocates while maintaining their own professional identity. Today, now that there exists a formal office of Victim Advocacy and a network of local advocates, probation and parole are developing formal links and a process of working together in a complementary fashion.

City Approaches

Philadelphia

At the city level, Philadelphia developed a comprehensive strategy to assist crime victims in participating, understanding, and contributing to the criminal justice system. The basis of this strategy is a city-wide network structure that was established to address the specific needs of crime victims and witnesses. Its key feature, in conjunction with the service programs, is to increase the level of communication criminal justice system components have with victims and witnesses.

Probation plays an active role, as does the District Attorney's Office and victim service providers. Coordination of the victim witness programs and informational services to victims and witnesses are provided by the District Attorney's Office and the Probation Department. The Victim Services Unit also coordinates with the Probation Department to ensure prompt and sensitive responses to victim concerns.

Through information sharing and collaboration, voids in service delivery and duplication of services and resource constraints are identified. This process has generated tremendous momentum to streamline services for victims and increase community corrections' responsibility.⁸

Agency Approaches

The Victim Services Agency (VSA) in New York City

New York City's Victim Services Agency is cited here because of its extensive array of services to victims, and its far reaching tentacles which extend into all areas of the criminal justice system. Like many other nonprofit victim service agencies, it acts in the capacity of court liaison, is active in legislative lobbying, participates in criminal justice coordinating groups, collects and disburses restitution, and operates mediation centers. VSA also carries out extensive research in the field of victim services and conducts domestic violence and victim sensitivity workshops, which are attended by probation officers, as well as others, as part as their mandatory training.

VSA is involved in several collaborative efforts. One such effort centers around the operation of mediation centers. These centers serve as a meeting ground whereby offenders and victims, guided by volunteers, discuss their problem and reach a solution acceptable to both parties. Contracts resulting from successful mediation are legally binding -- enforceable in Civil and Criminal Courts.

VSA also collaborates with the City's Probation Department. Some of probation's staff are assigned to work at VSA's mediation centers where they assist in the screening and intake of cases. Recently, VSA and Probation secured funding to start a VORP program in which VSA staff will identify and screen the cases and conduct the mediation sessions. Probation staff will be responsible for implementing and monitoring all community service sentencing Plans.⁹

California Youth Authority

The California Youth Authority (CYA) has established a position of Assistant Director for Victim Services. The Assistant Director works exclusively on victim related issues such as expanding victim service programs and improving victim notification procedures, and is generally involved in programming and policy development. A Task Force, comprised of victims, victim advocacy organizations, and corrections and community corrections representatives is in place. The Task Force focuses on developing policy, on training staff about victim issues, and on increasing the availability of victim awareness correctional programs.

CYA has broken new ground in its implementation of offender programming. In 1983, it instituted the "Impact of Crime on Victims" program. Offenders under CYA supervision are brought together with crime victims (not the actual victim of their crime) or representatives of the victim. Through presentations and discussions, offenders learn firsthand about the impact of victimization and are forced to confront their own accountability. This process promotes awareness, accountability, and responsible living skills.

Organizational Approaches

Mothers Against Drunk Driving (MADD)

MADD, formed in 1980 in California, represents an externally driven approach to collaboration. This group has had a profound effect on victims as well as offenders by pushing for legislation pertaining to: Driving While Intoxicated (DWI) offenders, victim notification of case and offender status, and courtroom facilities for victims. In sum, MADD has facilitated the passage of over 1000 pieces of legislation.

One of the major activities of MADD entails bringing victims and offenders together. In localities where there is a MADD Chapter, judges require DWI offenders, as a condition of probation, to attend a meeting arranged by MADD in which a panel of DWI victims relate the impact of the crash on their lives. Judges throughout the nation are catching on -- they are adopting the MADD approach to sentencing.

The energy and momentum generated by MADD is phenomenal. It serves as a prime example of a proactive approach to address a specific crime victim issue. The public's response has been overwhelmingly positive. MADD's profound impact on drinking and driving cannot be ignored.

American Probation & Parole Association (APPA) and the National Organization for Victim Assistance (NOVA)

Two other national membership organizations demonstrate a different approach to victim/community corrections collaboration. For the past three years, both the APPA and NOVA have emphasized the need to critically look at the new role of the victim in the justice system and community corrections' increased responsibility in this regard. Their respective publications have focused on the issues and served as a catalyst to further explore how their members and others can get involved. Also, both have drawn

attention to their membership through workshops and key note speeches at annual conferences. Because of the size of the APPA and NOVA memberships, these organizations have a profound impact on surfacing the relationship between the victim and community corrections.

Some of these jurisdictions cited, as well as others, participated in collaborative training programs. These programs served as a catalyst for improved victim services. Each of these jurisdictions identified the gaps in victim services, clarified types of services being provided, identified potential resources, brainstormed new means to address services, identified key community leaders and agencies, and solidified team relationships. The training resulted in renewed energy for providing more effective victim services within a collaborative, team environment.

Summary

Collaboration can wear many faces. Different states, cities, and organizations have approached victim concerns with both creativity and tenacity. The examples, cited, serve as a reminder that sensitivity to resources and values will enhance the effort to involve community corrections in addressing victim concerns. A symphony can be interpreted and played in many ways. Just as the choice and selection of the conductor, score of music, the instruments, and the musicians play a critical part in producing a symphony, so do varying approaches play a role in addressing the needs of crime victims.

CONCLUSION

Webster's Dictionary defines collaboration as working jointly with others and/or cooperating₂ with an agency with which one is not immediately connected. Historically, probation and parole officers have had little contact with victims. It wasn't until recently that the paths of the victim, victim advocate, and community corrections crossed. By working together, or collaboratively, community corrections and victim service providers can build more effective mechanisms to address the crime victim's needs and concerns. The notion of tapping into and enhancing community resources embodies the philosophy of community corrections. Community corrections can build on its inherent sensitivity to victim concerns and help produce a fully orchestrated, finely executed symphony.

In order to achieve better service delivery to victims by community corrections, there must be a process developed

that will identify gaps in service delivery, reduce duplication, design sensible solutions to problem areas, channel existing resources or create new ones to meet needs, and train staff. But most importantly, such a process must foster collaboration among key criminal justice system components and victim advocacy groups. Together, community corrections and victim advocates CAN MAKE IT WORK.

NOTES

1. Bureau of Justice Statistics U.S. Department of Justice, Probation and Parole, 1986 (1987).
2. Shapiro, Carol, et al. The Role of Victim and Probation: Building a Collaborative Relationship. (1985).
3. Ibid.
4. Statistics were derived from the National Organization for Victim Assistance, Victim Rights and Services Legislative Directory 1987, by Diane Gibson of the American Bar Association.
5. Pact Institute of Justice, The VORP Book, (1984).
6. Personal Correspondence from Susan Alford, South Carolina Department of Parole and Community Corrections (March 8, 1988).
7. Personal Correspondence from Roger Daniels, Utah Department of Corrections (February 29, 1988).
8. Personal Correspondence from Frank Menna, Philadelphia Adult Probation Department (March 16, 1988).
9. Victim Services Agency of New York City, Public Information Packet (1988).
10. Personal Correspondence from Sharon English, California Youth Authority (February, 1988).
11. Mothers Against Drunk Driving, Public Information Packet, (February, 1988).
12. Webster's Dictionary, Seventh New Collegiate edition (1971).

APPENDIX A

Exemplary Victim Impact Statement

IN THE IOWA DISTRICT COURT IN AND FOR STORY COUNTY

THE STATE OF IOWA,
Plaintiff
vs.

Defendant

)
)
)
)
)
)

No. _____
VICTIM IMPACT STATEMENT

INSTRUCTIONS TO THE VICTIM: This victim impact information, if you choose to complete it, will provide the sentencing judge in this matter with knowledge about the impact of this crime on your life. Please print or type your answers. Feel free to write more on another sheet and attach it if you need to.

If you suffered any physical injuries as a result of this crime, describe them and any long-term or permanent effect they have had:

You have reported any financial losses you may have suffered on another form, entitled "Restitution Information." Please explain how these losses have affected you and your lifestyle.

Describe any changes in your personal welfare, family relationships or way of life that have occurred as a result of this crime:

What kind of counseling or other psychological services have you or any member of your family or household sought because of this crime?

(over)

What else would you like the judge to know about the impact of this crime?

The category under which this crime is classified has been marked on the table below. Please note it and read the explanation beneath the table before answering the next question.

Table with 2 columns: CRIME and MAXIMUM SENTENCE. Rows include Class A-Felony, Class B-Felony, Class C-Felony, Class D-Felony, Aggravated Misdemeanor, Serious Misdemeanor, and Simple Misdemeanor.

A defendant may also receive a suspended sentence, which consists of a period of probation during which he or she must report to the Department of Corrections. Another possible sentence is a deferred judgment, which can be given to first time offenders or under other special circumstances.

What kind of sentence would you consider fair for the defendant?

These comments will be entered into the court file but will be placed in a separate envelope to make sure that they are kept confidential. They will be read by the judge, the defendant, the defense attorney, the pre-sentence investigator, the victim witness coordinator and the county attorney.

_____ Date _____ Signature

_____ Print Name Here

- Copies To:
Defendant's Attorney
County Attorney
Dept. of Correctional Services

RESTITUTION INFORMATION

Name: _____

Address: _____

Phone: (home) _____ (work) _____

Case Name: State of Iowa Vs. _____

PROPERTY STOLEN OR DAMAGED

Describe property that was stolen or damaged. List its value and/or the cost of its repair. ATTACH COPIES OF BILLS, RECEIPTS, ETC.

	Description	Value/ Cost
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

Have you been or do you expect to be reimbursed by an insurance company for any property damages listed? Please list the line numbers from above which correspond to losses for which you have been or expect to be reimbursed, your deductible, if any, and the name of the insurance company and agent(s). ATTACH COPIES OF BILLS, RECEIPTS, ETC.,

Line No.	\$ Rec'd	\$ Expected	Deductible	Insurance Co, Address and Agent

MEDICAL OR FUNERAL EXPENSES

Describe any medical or funeral expenses you may have incurred as a result of this crime. Include the name of the hospital or doctor and cost. ATTACH COPIES OF BILLS, RECEIPTS, ETC.

Date	Type of Expense	Hospital/Doctor	Cost
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			

Have you been or do you expect to be reimbursed by an insurance company for any medical or funeral expenses listed above? Please list the line number from above which corresponds to the expense for which you have been or expect to be reimbursed, your deductible, if any, and the name of the insurance company and agent(s). If you have received or expect an award from the Iowa Crime Victims Reparation Program, note this also. ATTACH COPIES OF BILLS, RECEIPTS, ETC.

Line No.	\$ Rec'd	\$ Expected	Deductible	Insurance Co., Address and Agent

OTHER EXPENSES

If you have suffered any other expenses as a result of this crime, please list them here. This could include lost income, child care during court appearances, etc. Please be specific and ATTACH COPIES OF BILLS, RECEIPTS, ETC.

Description	Cost

APPENDIX B

(Model Victims' Bill of Rights)



STATE OF MICHIGAN
84TH LEGISLATURE
REGULAR SESSION OF 1988

Introduced by Reps. Van Regenmorter, Gubow, Stabenow, Willis Bullard, Gire, Martin, Stacey, Ciaramitaro, DeBeaussaert, Krause, Randall, Oxender, Farhat, Varga, Mathieu, Nye, Sparks, Miller, Walberg, Ouwinga, Allen, Dunaskiss, Perry Bullard, Bender, Power, Strand, Spaniola, Hertel, Smith, Bennane, Emmons, Fitzgerald, Honigman, Law, Sikkema, Bankes, Middaugh, Connors, Wartner, Stopczynski, Keith, Gagliardi, Clack, Jonker, Niederstadt, Leland, Hickner and Munsell

ENROLLED HOUSE BILL No. 4857

AN ACT to amend sections 2,5,6, 16, 19,23,24, and 25 of Act No. 87 of the Public Acts of 1985, entitled "An act to establish the rights of victims of crime: to provide for certain procedures; to establish certain immunities and duties; to limit convicted criminals from deriving profit under certain circumstances; to prohibit certain conduct of employers or employers' agents toward victims: and to provide for penalties and remedies," section 16 as amended by Act No. 234 of the Public Acts of 1986, being sections 780.752, 780.755, 780.756, 730.766, 780.769,730.773,780.774, and 730.775 of the Michigan Compiled Laws; and to add section 18a and article 3.

The People of the State of Michigan enact

Section 1. Sections 2, 5, 6, 16, 19, 23, 24, and 25 of Act No. 87 of the Public Acts of 1985, section 16 as amended by Act No. 234 of the Public Acts of 1986, being sections 780.752, 730.755, 730.756, 730.766, 730.769, 730.773, 730.774, and 780.775 of the Michigan Compiled Laws, are amended and section 18a and article 3 are added to read as follows:

ARTICLE 1

Sec. 2. (1) As used in this article:

- (a) "Crime" means a violation of a penal law of this state for which the offender, 'upon conviction, may be punished by imprisonment for more than 1 year, or an offense expressly designated by law to be a felony.
- (b) "Defendant" means a person charged with or convicted of having committed a crime against a victim.
- (c) "Final disposition" means the ultimate termination of the criminal prosecution of a defendant including, but not limited to, dismissal, acquittal, or imposition of sentence by the court.
- (d) "Person" means an individual, organization, partnership, corporation, or governmental entity.
- (e) "Prisoner" means a person who has been convicted and sentenced to imprisonment for having committed a crime against a victim.
- (f) "Prosecuting attorney" means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, and a special prosecuting attorney.
- (g) "Victim", except for purposes of section 16. means any of the following
 - (i) An individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime, except as provided in subparagraph (ii), (iii), or (iv).

(ii) The following relations of a deceased victim if the relation is not the defendant:

(A) The spouse.

(B) A child 15 years of age or older if subparagraph (A) does not apply.

(C) A parent if subparagraphs (A) and (B) do not apply.

(D) A sibling if subparagraphs (A) to (C) do not apply.

(E) A grandparent if subparagraphs (A) to (D) do not apply.

(iii) A parent, guardian, or custodian of a victim who is less than 18 years of age if the parent, guardian, or custodian so chooses.

(iv) A parent, guardian, or custodian of a victim who is so mentally incapacitated that he or she cannot meaningfully understand or participate in the legal process.

(2) If a victim as defined in subsection (l)(g)(i) is physically unable to exercise the privileges and rights under this article, the victim may designate his or her spouse or a child 15 years of age or older, parent, sibling, or grandparent of the victim to act in place of the victim during the duration of the physical disability. During the physical disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

Sec. 5. (1) Not later than 24 hours after the arraignment of the defendant for a crime, the law enforcement agency having responsibility for investigating the crime shall give to the victim notice of the availability of pretrial release for the defendant, the phone number of the sheriff, and notice that the victim may contact the sheriff to determine whether the defendant has been released from custody.

(2) Based upon the victim's affidavit asserting acts or threats of physical violence or intimidation by the defendant or at the defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the bond or personal recognizance of a defendant be revoked.

Sec. 6. (1) Not later than 7 days after the arraignment of the defendant for a crime, but not less than 24 hours before a preliminary examination, the prosecuting attorney shall give to each victim a written notice in plain English of each of the following

(a) A brief statement of the procedural steps in the processing of a criminal case.

(b) The rights and procedures under this article.

(c) Details and eligibility requirements under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.

(d) Suggested procedures if the victim is subjected to threats or intimidation.

(e) The person to contact for further information.

(2) If requested by the victim, the prosecuting attorney shall give to the victim notice of any scheduled court proceedings and notice of any changes in that schedule.

(3) The prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about the disposition of a crime, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs.

(4) A victim who receives a notice under subsection (1) and who chooses to receive any other notice or notices under this article shall keep the following persons informed of the victim's current address and phone number:

(a) The prosecuting attorney, until final disposition or completion of the appellate process, whichever occurs later.

(b) The department of corrections or the sheriff as directed by the prosecuting attorney if the defendant is imprisoned.

Sec. 16. (1) For purposes of this section only, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime: and for purposes of subsections (2), (3), (4), (7), (9), (10), (11), and (15), "victim" includes a sole proprietorship, partnership, or corporation.

(2) The court, when sentencing a defendant convicted of a crime, may order, in addition to or in lieu of any other penalty authorized by law or in addition to any other penalty required by law, that the defendant make restitution to any victim of the defendant's course of conduct which gives rise to the conviction, or to the victim's estate.

(3) If the court does not order restitution, or orders only partial restitution under this section, the court shall state on the record the reasons for that action.

(4) If a crime results in damage to or loss or destruction of property of a victim of the offense, the order of restitution may require that the defendant do either of the following.

- (a) Return the property to the owner of the property or to a person designated by the owner.
- (b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraphs (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:
- (i) The value of the property on the date of the damage, loss, or destruction.
 - (ii) The value of the property on the date of sentencing.
- (5) If a crime results in physical or psychological injury to a victim, the order of restitution may require that the defendant do 1 or more of the following, as applicable:
- (a) Pay an amount equal to the cost of actual medical and related professional services and devices relating to physical and psychological care.
 - (b) Pay an amount equal to the cost of actual physical and occupational therapy and rehabilitation.
 - (c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the offense.
 - (d) Pay an amount equal to the cost of psychological and medical treatment for members of the victim's family which has been incurred as a result of the offense.
- (6) If a crime resulting in bodily injury also results in the death of a victim, the order of restitution may require that the defendant pay an amount equal to the cost of actual funeral and related services.
- (7) Instead of restitution under subsections (4) to (6), if the victim or victim's estate consents, the order of restitution may require that the defendant make restitution in services in lieu of money, or make restitution to a person designated by the victim or victim's estate if that person provided services to the victim as a result of the crime.
- (8) If the court orders restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.
- (9) Any order of restitution shall be as fair as possible to the victim or victim's estate without unduly complicating or prolonging the sentencing process.
- (10) The court shall not order restitution with respect to a loss for which the victim or victim's estate has received or is to receive compensation, including insurance, except that the court may, in the interest of justice, order restitution to the crime victims compensation board or to any individuals, organizations, partnerships, corporations, or governmental entities that have compensated the victim or victim's estate for such a loss to the extent of the compensation paid. An order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person under that order is made.
- (11) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or state civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victims compensation board made after an order of restitution under this section.
- (12) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the defendant make restitution under this section within a specified period or in specified installments. The end of the period or the last installment shall not be later than the following:
- (a) The end of the period of probation, if probation is ordered.
 - (b) Two years after the end of imprisonment or discharge from parole, whichever occurs later, if the court does not order probation.
 - (c) Three years after the date of sentencing in any other case.
- (13) If the defendant is placed on probation or paroled, any restitution ordered under this section shall be a condition of that probation or parole. The court may revoke probation and the parole board may revoke parole if the defendant fails to comply with the order and if the defendant has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole, the court or parole board shall consider the defendant's employment status, earning ability, financial resources, and 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.
- (14) A defendant who is required to pay restitution and who is not in willful default of the payment of the restitution, at any time, may petition the sentencing judge or his or her successor for a cancellation of any unpaid portion of restitution. If it appears to the satisfaction of the court that payment of the amount due will impose a manifest hardship on the defendant or his or her immediate family, the court may cancel all or part of the amount due in restitution or modify the method of payment.
- (15) An order of restitution may be enforced by the prosecuting attorney or a victim or victim's estate named in the order to receive the restitution in the same manner as a judgment in a civil action.

(16) Notwithstanding any other provision of this section, a defendant shall not be imprisoned, jailed, or incarcerated for a violation of parole or probation, or otherwise, for failure to pay restitution as ordered under this section unless the court determines that the defendant has the resources to pay the ordered restitution and has not made a good faith effort to do so.

Sec. 18a. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following

- (a) That the defendant has filed an appeal of his or her conviction.
- (b) A brief explanation in plain English of the appeal process, including the possible dispositions.
- (c) Whether the defendant has been released on bail or other recognizance pending the disposition of the appeal.
- (d) The time and place of any appellate court proceedings and any changes in the time or place of those proceedings.
- (e) The result of the appeal.

(2) In the event the defendant's conviction is reversed and the case is returned to the trial court for further proceedings, the victim shall have the same rights previously requested during the proceedings which led to the appeal.

Sec. 19. (1) Upon the written request of a victim of a crime, the sheriff or the department of corrections shall mail to the victim the following, as applicable, about a prisoner who has been sentenced to imprisonment under the jurisdiction of the sheriff or the department for commission of that crime:

(a) Within 30 days after the request, notice of the sheriff's calculation of the earliest release date of the prisoner, or the department's calculation of the earliest parole eligibility date of the prisoner, with all potential good time or disciplinary credits considered if the sentence of imprisonment exceeds SO days. The victim may request 1-time only notice of the calculation described in this subdivision.

(b) Notice of the transfer or pending transfer of the prisoner to a minimum security facility and the address of that facility.

(c) Notice of the release or pending release of the prisoner in a community residential program, under extended furlough, or any other transfer of a prisoner to community status.

(d) Notice of any reduction in the minimum sentence resulting under the prison overcrowding emergency powers act, Act No. 519 of the Public Acts of 1980, being sections 800.71 to 800.79 of the Michigan Compiled Laws.

(e) Notice of the escape of the person accused, convicted, or imprisoned for committing a crime against the victim, as provided in section 20.

(f) Notice of the victim's right to address or submit a written statement for consideration by a parole board member or a member of any other panel having authority over the prisoner's release on parole, as provided in section 21.

(g) Notice of the decision of the parole board, or any other panel having authority over the prisoner's release on parole, after a parole review, as provided in section 21(3).

(h) Notice of the release of a prisoner SO days before the date of the prisoner's discharge from prison where practical, unless the notice has been otherwise provided under this article.

(i) Notice of a public hearing pursuant to section 44 of Act No. 232 of the Public Acts of 1953, being section 791.244 of the Michigan Compiled Laws, regarding a reprieve, commutation, or pardon of the prisoner's sentence by the governor.

(j) Notice that a reprieve, commutation, or pardon has been granted.

(2) A victim's address and telephone number maintained by a sheriff or the department of corrections pursuant to a request for notice under subsection (1) shall be exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Sec. 23. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, a municipality or any of their agencies, or instrumentalities, or employees.

Sec. 24. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

Sec. 25. (1) This article shall take effect October 9, 1985.

(2) This article shall apply only to crimes committed on or after October 9, 1985.

ARTICLE 3

Sec. 61. (1) As used in this article:

(a) “Serious misdemeanor” means 1 of the following misdemeanors:

(i) A violation of section 81 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.81 of the Michigan Compiled Laws, assault and battery.

(ii) A violation of section 81a of Act **NO.** 328 of the Public Acts of 1931, being section 750.81a of the Michigan Compiled Laws, assault: infliction of serious injury.

(iii) A violation of section 115 of Act **NO.** 328 of the Public Acts of 1931, being section 750.115 of the Michigan Compiled Laws, breaking and entering or illegal entry.

(iv) A violation of section 145a of Act No. 328 of the Public Acts of 1931, being section 750.145a of the Michigan Compiled Laws, enticing a child for immoral purposes.

(v) A violation of section 234 of Act **NO.** 328 of the Public Acts of 1931, being section 750.234 of the Michigan Compiled Laws, discharge of a firearm intentionally aimed at a person.

(vi) A violation of section 235 of Act No. 328 of the Public Acts of 1931, being section 750.235 of the Michigan Compiled Laws, discharge of an intentionally aimed firearm resulting in injury.

(vii) A violation of section 617a of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.617a of the Michigan Compiled Laws, leaving the scene of a personal injury accident.

(viii) A violation of section 625 or 625b of Act No. 300 of the Public Acts of 1949, being sections 257.625 and 257.625b of the Michigan Compiled Laws, operating a vehicle while under the influence of or impaired by alcohol or a controlled substance, if the violation involves an accident resulting in injury to another’s person.

(ix) A violation of a local ordinance substantially corresponding to a violation enumerated in subparagraphs (i) to (viii).

(b) “Defendant” means a person charged with or convicted of having committed a serious misdemeanor against a victim.

(c) “Final disposition” means the ultimate termination of the criminal prosecution of a defendant including, but not limited to, dismissal, acquittal, or imposition of a sentence by the court

(d) “Person” means an individual, organization, partnership, corporation, or governmental entity.

(e) “Prisoner” means a person who has been convicted and sentenced to imprisonment for having committed a serious misdemeanor against a victim.

(f) “Prosecuting attorney” means the prosecuting attorney for a county, an assistant prosecuting attorney for a county, the attorney general, the deputy attorney general, an assistant attorney general, a special prosecuting attorney, and in connection with the prosecution of an ordinance violation, an attorney for the political subdivision that enacted the ordinance upon which the violation is based.

(g) “Victim”, except for purposes of section 76, means any of the following:

(i) An individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a serious misdemeanor, except as provided in subparagraph (ii), (iii), or (iv).

(ii) The following relations of a deceased victim if the relation is not the defendant:

(A) The spouse.

(B) A child 15 years of age or older if subparagraph (A) does not apply.

(C) A parent if subparagraphs (A) and (B) do not apply.

(D) A sibling if subparagraphs (A) to (C) do not apply.

(E) A grandparent if subparagraphs (A) to (D) do not apply.

(iii) A parent, guardian, or custodian of a victim who is less than 18 years of age if the parent, guardian, or custodian so chooses.

(iv) A parent, guardian, or custodian of a victim who is so mentally incapacitated that he or she cannot meaningfully understand or participate in the legal process.

(2) If a victim as defined in subsection (1)(g)(i) is physically unable to exercise the privileges and rights under this article, the victim may designate his or her spouse or a child 15 years of age or older, parent, sibling, or grandparent of the victim to act in place of the victim during the duration of the physical disability. The victim shall inform the prosecuting attorney of who is to act in place of the victim. During the physical disability, notices to be provided under this article to the victim shall continue to be sent only to the victim.

(3) An individual who is charged with a serious misdemeanor or a crime as defined in article 1 arising out of the same transaction from which the charge against the defendant arose is not eligible to exercise the privileges and rights established for victims under this article.

Sec. 62. A law enforcement officer investigating a serious misdemeanor involving a victim shall include with the complaint, appearance ticket, or traffic citation filed with the court a separate written statement including the name, address, and phone number of each victim. This separate statement shall not be a matter of public record.

Sec. 63. Within 24 hours after the initial contact between the victim of a reported serious misdemeanor and the law enforcement agency having the responsibility for investigating that serious misdemeanor, that agency shall give to the victim the following information:

- (a) The availability of emergency and medical services, if applicable.
- (b) The availability of victim's compensation benefits and the address of the crime victims compensation board.
- (c) The address and phone number of the prosecuting attorney whom the victim should contact to obtain information about victim's rights.
- (d) The following statement:

"If within 6 months, you are not notified of an arrest in your case, you may call [the law enforcement agency's telephone number] for the status of the case."

Sec. 64. (1) The law enforcement agency having responsibility for investigating a reported serious misdemeanor shall promptly return to the victim property belonging to that victim which is taken in the course of the investigation, except as provided in subsections (2) to (4).

- (2) The agency shall not return property which is contraband.
- (3) The agency shall not return property if the ownership of the property is disputed until the dispute is resolved.
- (4) The agency shall retain as evidence any weapon used in the commission of the serious misdemeanor and any other evidence if the prosecuting attorney certifies that there is a need to retain that evidence in lieu of a photograph or other means of memorializing its possession by the agency.

Sec. 65. (1) Not later than 72 hours after the arrest of the defendant for a serious misdemeanor, the law enforcement agency having responsibility for investigating the serious misdemeanor shall give to the victim notice of the availability of pretrial release for the defendant, the phone number of the sheriff, and notice that the victim may contact the sheriff to determine whether the defendant has been released from custody.

(2) If the victim submits an affidavit asserting acts or threats of physical violence or intimidation by the defendant or at the defendant's direction against the victim or the victim's immediate family, the prosecuting attorney, based on the victim's affidavit, may move that the bond or personal recognizance of a defendant be revoked.

Sec. 66. (1) If a plea of guilty or nolo contendere is accepted by the court at the time of the arraignment of the defendant for a serious misdemeanor, the court shall notify the prosecuting attorney of the plea and the date of sentencing within 48 hours after the arraignment. If no guilty or nolo contendere plea is accepted at the arraignment and further proceedings will be scheduled, the court shall also notify the prosecuting attorney within 48 hours after the arraignment. A notice to the prosecuting attorney under this subsection shall include the name, address, and phone number of the victim. Within 48 hours after receiving this notice, the prosecuting attorney shall give to each victim a written notice in plain English of each of the following:

- (a) A brief statement of the procedural steps in the processing of a misdemeanor case, including pretrial conferences.
- (b) The rights and procedures under this article.
- (c) Details and eligibility requirements under Act No. 223 of the Public Acts of 1976, being sections 18.351 to 18.368 of the Michigan Compiled Laws.
- (d) Suggested procedures if the victim is subjected to threats or intimidation.
- (e) The person to contact for further information.

(2) If requested by the victim, the prosecuting attorney shall give to the victim notice of any scheduled court proceedings and notice of any changes in that schedule.

(3) If the defendant has not already entered a plea of guilty or nolo contendere at the arraignment, the prosecuting attorney shall offer the victim the opportunity to consult with the prosecuting attorney to obtain the views of the victim about the disposition of the serious misdemeanor, including the victim's views about dismissal, plea or sentence negotiations, and pretrial diversion programs.

(4) If the case against the defendant is dismissed at any time, the prosecuting attorney shall notify the victim of the dismissal within 48 hours.

(5) A victim who receives a notice under subsection (1) or (2) and who chooses to receive any other notice or notices under this article shall keep the following persons informed of the victim's current address and phone number:

(a) The prosecuting attorney, until final disposition or completion of the appellate process, whichever occurs later.

(b) The sheriff, if the defendant is imprisoned for more than 92 days.

Sec. 67. The court shall provide a waiting area for the victim separate from the defendant, defendant's relatives, and defense witnesses if such an area is available and the use of the area is practical. If a separate waiting area is not available or practical, the court shall provide other safeguards to minimize the victim's contact with defendant, defendant's relatives, and defense witnesses during court proceedings.

Sec. 68. Based upon the victim's reasonable apprehension of acts or threats of physical violence or intimidation by the defendant or at defendant's direction against the victim or the victim's immediate family, the prosecuting attorney may move that the victim or any other witness not be compelled to testify at pretrial proceedings or at trial for purposes of identifying the victim as to the victim's address, place of employment, or other personal identification without the victim's consent. A hearing on the motion shall be in camera.

Sec. 69. An expedited trial may be scheduled for any case in which the victim is averred by the prosecuting attorney to be a child.

Sec. 70. Upon request of the victim, the prosecuting attorney shall confer with the victim prior to the trial of the defendant.

Sec. 71. The victim has the right to be present throughout the entire trial of the defendant, unless the victim is going to be called as a witness. If the victim is going to be called as a witness, the court may, for good cause shown, order the victim to be sequestered until the victim first testifies.

Sec. 72. An employer or the employer's agent, who threatens to discharge or discipline or who discharges, disciplines, or causes to be discharged from employment or to be disciplined a victim because that victim is subpoenaed or requested by the prosecuting attorney to attend court for the purpose of giving testimony, is guilty of a misdemeanor and may be punished for contempt of court.

Sec. 73. (1) The prosecuting attorney, upon and in accordance with the request of the victim, shall give to the victim notice of the following:

(a) The defendant's conviction.

(b) The offenses for which the defendant was convicted.

(c) If a presentence investigation report is to be prepared, the victim's right to make a written or oral impact statement for use in the preparation of the presentence investigation report concerning the defendant.

(d) The address and telephone number of the probation office which is to prepare the presentence investigation report.

(e) That a presentence investigation report and any statement of the victim included in the report will be made available to the defendant unless exempted from disclosure by the court.

(f) The victim's right to make an impact statement at sentencing.

(g) The time and place of the sentencing proceeding.

(2) The notice given by the prosecuting attorney to the victim must be given by any means reasonably calculated to give prompt actual notice.

(3) A notice given under subsection (1) shall inform the victim that his or her impact statement may include but shall not be limited to the following:

(a) An explanation of the nature and extent of any physical, psychological, or emotional harm or trauma suffered by the victim.

(b) An explanation of the extent of any economic loss or property damage suffered by the victim.

(c) An opinion of the need for and extent of restitution and whether the victim has applied for or received compensation for loss or damage.

(d) The victim's recommendation for an appropriate sentence.

Sec. 74. If a presentence investigation report concerning the defendant is prepared, the victim has the right to submit or make a written or oral impact statement to the probation officer for use by that officer in preparing the report pursuant to section 14 of chapter XI of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 771.14 of the Michigan Compiled Laws. A victim's written statement shall, upon the victim's request, be included in the presentence investigation report.

Sec. 75. If no presentence report is prepared, the court shall notify the prosecuting attorney of the date and time of sentencing at least 10 days prior to the sentencing. The victim shall have the right to submit a written impact statement and shall have the right to appear and make an oral impact statement at the sentencing of the defendant. The court shall consider the victim's statement in imposing sentence on the defendant.

Sec. 76. (1) As used in this section:

(a) "Victim" means an individual who suffers actual financial loss or expense as a result of the commission of a misdemeanor, and for purposes of subsections (2), (3), (4), (6), (8), (9), and (10), victim includes a sole proprietorship, partnership, or corporation.

(b) "Misdemeanor" means a violation of a law of this state, or of a local ordinance substantially corresponding to a law of this state, that is punishable by imprisonment for not more than 1 year or by a fine that is not a civil fine, but is not a felony.

(2) The court, when sentencing a defendant convicted of a misdemeanor, may order, in addition to or in lieu of any other penalty authorized by law, or in addition to any other penalty required by law, that the defendant make restitution to any victim of the defendant's course of conduct that gives rise to the conviction or to the victim's estate.

(3) If the court does not order restitution, or orders only partial restitution under this section, the court shall state on the record the reasons for that action.

(4) If a misdemeanor results in damage to or loss or destruction of property of a victim of the offense, the order of restitution may require that the defendant do either of the following:

(a) Return the property to the owner of the property or to a person designated by the owner.

(b) If return of the property under subdivision (a) is impossible, impractical, or inadequate, pay an amount equal to the greater of subparagraphs (i) or (ii), less the value, determined as of the date the property is returned, of that property or any part of the property that is returned:

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

(ii) The value of the property on the date of sentencing.

(5) If a misdemeanor results in physical injury to a victim, the order of restitution may require that the defendant do 1 or more of the following, as applicable:

(a) Pay an amount equal to the cost of the victim's actual medical and related professional services and devices relating to the physical care.

(b) Pay an amount equal to the cost of the victim's actual physical and occupational therapy and rehabilitation.

(c) Reimburse the victim or the victim's estate for after-tax income loss suffered by the victim as a result of the offense.

(6) Instead of restitution under subsections (4) and (5), if the victim or victim's estate consents, the order of restitution may require that the defendant make restitution in services in lieu of money, or make restitution to a person designated by the victim or victim's estate if that person provided services to the victim as a result of the misdemeanor.

(7) If the court orders restitution under this section, the court shall, if the victim is deceased, order that the restitution be made to the victim's estate.

(8) Any order of restitution shall be as fair as possible to the victim or victim's estate without unduly complicating or prolonging the sentencing process.

(9) The court shall not order restitution with respect to a loss for which the victim or victim's estate has received or is to receive compensation, including insurance, except that the court may, in the interest of justice, order restitution to the crime victims compensation board or to any individuals, organizations, partnerships, corporations, or governmental entities that have compensated the victim or victim's estate for such a loss to the extent of the compensation paid. An order of restitution shall require that all restitution to a victim or victim's estate under the order be made before any restitution to any other person under that order is made.

(10) Any amount paid to a victim or victim's estate under an order of restitution shall be set off against any amount later recovered as compensatory damages by the victim or the victim's estate in any federal or **State** civil proceeding and shall reduce the amount payable to a victim or a victim's estate by an award from the crime victims compensation board made after an order of restitution under this section.

(11) If not otherwise provided by the court under this subsection, restitution shall be made immediately. However, the court may require that the defendant make restitution under this section within a specified period or in specified installments.

(12) In determining the amount of restitution, the court shall consider the defendant's earning ability, financial resources, and any other special circumstances that may have a bearing on the defendant's ability to pay.

Sec. 77. Upon the request of a victim, the prosecuting attorney shall, within 30 days after the final disposition of the case, notify the victim in writing of the final disposition of the case.

Sec. 78. (1) Upon the request of the victim, the prosecuting attorney shall notify the victim of the following

(a) That the defendant has filed an appeal of his or her conviction.

(b) A brief explanation in plain English of the appeal process, including the possible dispositions.

(c) Whether the defendant has been released on bail or other recognizance pending the disposition of the appeal.

(d) The time and place of any appellate court proceedings and any changes in the time or place of those proceedings.

(e) The result of the appeal.

(2) In the event the defendant's conviction is reversed and the case is returned to the trial court for further proceedings, the victim shall have the same rights previously requested during the proceedings which led to the appeal.

Sec. 79. (1) Upon the written request of the victim, the sheriff shall notify the victim of the earliest possible release date of the defendant if the defendant is sentenced to more than 92 days' imprisonment.

(2) The victim's written request for notice under this section shall include the victim's address.

Sec. 80. A victim's address and telephone number maintained by a court or a sheriff pursuant to this article is exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

Sec. 81. (1) A person convicted of a serious misdemeanor shall not derive any profit from the sale of his or her recollections, thoughts, and feelings with regard to the offense committed by that person until the victim receives any restitution or compensation ordered for him or her against the defendant and expenses of incarceration are recovered as provided in subsection (3) and until the escrow account created under subsection (2) is terminated under subsection (4).

(2) Upon the conviction of a defendant for a serious misdemeanor involving a victim, and after notice to any interested party, an attorney for the county in which the conviction occurred or the attorney general may petition the court in which the conviction occurred to order that defendant forfeit all or any part of proceeds received or to be received by the defendant, or the defendant's representatives or assignees, from contracts relating to the depiction of the crime or the defendant's recollections, thoughts, or feelings about the crime, in books, magazines, media entertainment, or live entertainment. The proceeds shall be held in escrow for a period of not more than 5 years.

(3) During the existence of the escrow account, proceeds in the account shall be distributed in the following priority for the following purposes:

(a) To satisfy an order of restitution entered under section 76.

(b) To satisfy any civil judgment in favor of the victim against that defendant.

(c) To satisfy any reimbursement ordered under the prisoner reimbursement to the county act, Act No. 118 of the Public Acts of 1984, being sections 801.81 to 801.93 of the Michigan Compiled Laws, or ordered under the state correctional facility reimbursement act, Act No. 253 of the Public Acts of 1935, being sections 800.401 to 800.406 of the Michigan Compiled Laws.

(4) Fifty percent of the balance remaining in the escrow account at the end of the escrow period shall be payable to the defendant and the remaining 50% of the balance shall be payable to the state general fund for use of the crime victims compensation board to pay compensation claims.

Sec. 82. Nothing in this article shall be construed as creating a cause of action for money damages against the state, a county, a municipality or any of their agencies, instrumentalities, or employees.

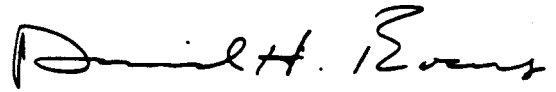
Sec. 83. The failure to provide a right, privilege, or notice to a victim under this article shall not be grounds for the defendant to seek to have the conviction or sentence set aside.

Sec. 84. (1) This article shall take effect June 1, 1988.

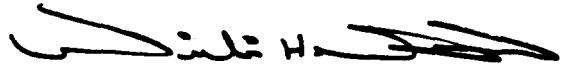
(2) This article shall apply only to misdemeanors committed on or after June 1, 1988

Section 2. This amendatory act shall take effect June 1, 1988.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.



APPENDIX c

Jurisdictional Profile of
victims and Community Corrections

The following questions are designed to elicit information about your agency and its organizational environment. Please complete the questionnaire as it best describes the situation in your agency and jurisdiction.

1. History of Collaboration:

What is the history of actual or attempted collaborative relations among victim service agencies, community correction agencies, and other criminal justice agencies in your jurisdiction?

Collaboration:

2. a. Are there any current collaborative efforts on victim issues between community corrections and victim agencies in your jurisdiction?

Yes No

If yes, please define the extent and type of collaboration.

If no, specify as best as you can why collaboration does not exist.

- b. What are the obstacles in your jurisdiction to developing inter-agency collaboration on victim issues? Obstacles in your agency?

3. Does a general feedback mechanism exist between agencies for the potential cooperation and exchange of information on victim issues?
For example, regular meetings, memos, etc.

4. a. Are you aware of any formal agency requirement regarding the provision of specific victim services by agencies in your jurisdiction?

Yes No

If yes, list the services.

- b. Are any victim services provided on an informal basis? In your jurisdiction? Please list.

Legislation

5. Is there special victim-related legislation in your state? What is it? What is its impact, if any, on working relations between agencies? Do you think the legislation is being used to its full extent?

Environment

6. What are the gaps in victim services in your jurisdiction?
7. What areas do you think would benefit from providing a collaborative approach to victim services?
8. Are there particular economic, social, or crime problems which presently affect your agency's service provision for victims? Other agencies in your jurisdiction?
9. Does your agency focus on special types of victims?
10. Are any of the agencies in your jurisdiction under court order to provide victim services?
11. What agencies ought to be included in a collaborative effort?

<u>Agency</u>	<u>State</u>	<u>Local</u>	<u>Private Sector</u>
1.			
2.			
3.			
4.			
5.			
6.			

APPENDIX D

RESOURCES

Program Resource Center
school of Criminal Justice
15 Washington Street
Newark, NJ 07102
(201) 648-5209
Carol Shapiro
Director

California Youth
Authority
4241 Williamsborough Drive
Suite 201
Sacramento, CA 95823
(916) 427-4818
Sharon English
Assistant Director

National Organization
for Victim Assistance
717 D Street, NW
Washington, D.C. 20004
(202) 383-6682
Diane Alexander,
Assistant Director
for Field Services

National Institute of
Corrections
320 First Street, NW
Washington, D.C. 20534
(202) 724-3106
George Keiser

National Association
of Parole & Probation
c/o Alan Schuman
500 Indiana Avenue, NW
Washington, D.C. 20001
(202) 879-1866

Vermont Department of
State's Attorney
Victim Assistance Program
c/o State Administration
Building
133 State Street
Montpelier, VT 05602
(802) 828-2891
Karen Bradley

Minnesota Citizens Council
on Crime and Justice
822 South 3rd Street
Suite 100
Minneapolis, MN 55415
(612) 340-5432
Mark Umbreit
Vice-President for
Research & Programs

Mothers Against Drunk
Driving
669 Airport Freeway
Suite 310
Hurst, TX 76053
(817) 268-6233
Janice Lord
Director of Victim
Services

Philadelphia Adult Probation
Department - Victim Services
Unit
121 N. Broad Street 3rd Floor
Philadelphia, Pa 19107
(215) 686-7744
Frank Menna,
Project Manager

South Carolina Dept. of
Parole and Community
Corrections
2221 Devine St., PC
Box 50666
Columbia, SC 29250
(803) 734-9278
Susan Alford,
Coordinator of Victim
Services

Utah Department of Corrections
431 South 300 East
Salt Lake City, UT 84111
(801) 533-4964
Roger Daniels
Assistant Regional
Director

Vermont Deputy
Commissioner
103 South Main Street
Warterbury, VT 05676
(802) 241-2263
Thomas E. Perras

Victim Services Agency
2 Lafayette Street
New York, NY 10007
(212) 577-7700
Christopher Whipple,
Director of Court and
Mediation